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ABSTRACT

This document presents background information and testimony concerning the cleanup of potentially contaminated vacant or underutilized property for use as future school sites in low-income and minority communities. Various proposals are offered that would allow the state, where necessary, to facilitate the cleanup of these "brownfields" to create safe schools and meet the demand for classroom space in underprivileged areas. Testimony covers the need to remediate brownfields for school sites in urban areas; the current process for evaluating environmental conditions and conducting cleanup; and the current funding mechanisms. The final section provides a roundtable discussion on how to make the process work better. (GR)

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ED 450 549

California State Legislature

Senate Select Committee on Environmental Justice

Richard Alarcón
Chair

Members:

Martha Escutia
Byron D. Sher
Kevin Murray
Hilda L. Solis

Brownfields to School Sites: How can the State Facilitate Cleanup to Build Essential Schools?

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January 14, 2000
Junipero Serra State Bldg. 107 South Broadway
Los Angeles, California

EF 005 852

Staff: Mark Stivers, Consultant

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SACRAMENTO OFFICE
STATE CAPITOL
SACRAMENTO, CA 95814-4906
(916) 445-7928

DISTRICT OFFICE
6150 VAN NUYS BLVD. #400
VAN NUYS, CA 91401
(818) 901-5588

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California State Senate

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RICHARD ALARCÓN
TWENTIETH SENATORIAL DISTRICT
SENATE MAJORITY WHIP

SENATE SELECT COMMITTEE ON ENVIRONMENTAL JUSTICE

Brownfields to School Sites – How Can the State Facilitate Cleanup to Build Essential Schools?

January 14, 2000 9:30 am- 12:30 pm
(Please note time change)
Junipero Serra State Building, Los Angeles
107 South Broadway, Room 1113

AGENDA

9:30-9:40 Introduction by Senator Alarcon and Members of the Committee.

9:40-9:55 The need to remediate brownfields for school sites in urban areas.
A. Lettie Boggs, Anaheim City Schools and CASH.
B. Bill Panos, LAUSD.

9:55-10:05 Current process for evaluating environmental conditions and conducting cleanup.
A. Barbara Coler, DTSC.

10:05-10:15 Current funding mechanisms.
A. David Zian, State Allocation Board.

10:15-12:15 Making the process work better – a roundtable discussion.
A. Jennifer Hernandez - California Center for Land Recycling.
B. Tom Soto - LAUSD Environmental Safety Team.
C. Connie Rice - English, Munger and Rice.
D. David Beckman – NRDC (Invited).
E. John Gamboa - Greenlining Coalition.
F. Greg Trimarche - State Bar Environmental Law Executive Committee.
G. Barbara Coler, Debbie Oudiz and Hamid Saebfar - DTSC.
H. Paul Hernandez - New Schools Better Neighborhoods.
I. Robert Garcia - Environmental Defense Fund.

12:15-12:30 Closing remarks.

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Brownfields to School Sites – How Can the State Facilitate Cleanup to Build Essential Schools?

Background Paper for January 14, 2000 Hearing

Purpose

Environmental injustice occurs where environmental degradations are overconcentrated in low-income and minority communities. Because a disproportionate share of "brownfields" -- vacant or underutilized sites that may be contaminated from prior uses -- are located in low-income and minority communities, cleaning up these sites and promoting their reuse helps alleviate the historical injustices affecting these neighborhoods.

At the same time, California's school-aged population continues to surge. School districts around the state face a dire need to construct new facilities to meet the demand for classroom space. However, in many communities, especially older urban areas comprised of low-income and minority neighborhoods, there are very few parcels of available land large enough to accommodate a school. As a result, a district must choose between demolishing existing homes and businesses or looking to brownfields.

Cleaning up brownfields for use as schools can bring a double benefit by both removing an eyesore and potential source of exposure to the community and providing the needed classroom space. The purpose of this hearing is to solicit and hear discussion of various proposals that would allow the state, where necessary, to facilitate the cleanup of brownfields to create safe schools.

Background

According to the Coalition for Adequate School Housing, California needs 22,000 new classrooms to serve its current student population.[1] In addition, the Department of Finance projects that K-12 enrollment will increase by roughly 369,000 between now 2007.[2] These facts and the ever-expanding class size reduction program fuel the intense drive now underway to construct new schools in

[1] Proposition 1A: The Facts. http://www.cashnet.org .
[2] Historical and Projected Enrollment, 1974-2007. 1998 Series K-12 Enrollment Projection. Demographics Unit, California Department of Finance, November 1998. http://www.cde.ca.gov/dmsbranch/sfpdiv/fieldservices/ mstrplng/proj59.htm

California. The Los Angeles Unified School District alone hopes to build 100 new schools in some of the city's densest neighborhoods by 2008.

The push to build new schools is complicated by the difficulty in finding appropriate sites. In urban districts, the areas of greatest need are often the most densely populated neighborhoods where vacant, unused land generally does not exist. Creating room for new schools in these communities means condemning and clearing existing homes and businesses. In the San Fernando Valley, for example, LAUSD is considering relocating the flagship Robinsons-May store which employs hundreds of retail and corporate personnel. In some cases, the only alternative to destroying business and residential opportunities is to consider sites that may contain environmental contamination, known as brownfields.

Brownfields are defined by the U.S. EPA as "abandoned, idled, or under-used industrial and commercial facilities where expansion or redevelopment is complicated by real or perceived environmental contamination."[3] In California alone, that number is estimated to be between 10,000 and 50,000 sites, the most common of which are old, deserted factories, plants, and gas stations. Brownfields cause blight in a community, hamper efforts at broader economic development, and are a potential source of environmental exposure. When cleaned or remediated, however, brownfields can provide many beneficial uses to a community, including jobs, housing, parks, and even schools.

In spite of the multiple benefits of cleaning and recycling brownfields for community uses such as schools, numerous barriers make it difficult for this transition to occur. First is the lack of clarity as to what level of remediation is necessary for a site to be considered clean. While there is considerable debate over what the standards should be, the lack of any presumptive standard creates an atmosphere of uncertainty that makes it very difficult for a district to reasonably assess the time and costs involved. Another major barrier is the added cost of cleanup.

Recent Legislation

In response to the fiasco at Belmont High School in Los Angeles where environmental concerns were ignored, a number of laws were enacted in 1999 to ensure that every new school site is safe for children.

SB 162 (Escutia). This bill requires a school district to conduct a three-tiered environmental assessment before acquiring a school site or constructing a school:

- In all circumstances, the district shall conduct a Phase I environmental assessment and forward it to the Department of Education (DOE) and the Department of Toxic Substances Control (DTSC). DTSC has 30 days to approve or reject the assessment. This review generally consists of looking at the history of the property for evidence of uses that may have led to contamination.

- If a potential environmental problem is discovered, the district must conduct a Preliminary Endangerment Assessment. After completion, DTSC has 60 days to approve or reject this assessment. This process includes soil tests and other measurements to document the type and extent of any contamination.

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[3] http://www.brownfieldsnet.org/bdef.htm

- If the PEA determines that an environmental problem exists, the district must work with DTSC to clean up the property to standards that ensure the site is safe for children, prepare a financial analysis that assesses the cost of cleanup and the benefits of the site compared to alternative sites, and obtain approval from DOE that the site meets schoolsite selection standards.

AB 387 (Wildman). This bill provides school districts with partial funding for the assessment and cleanup of schoolsites. The new provisions allow the State Allocation Board to provide:

- For 50 percent of the cost of the evaluation of hazardous materials at a site and for 50 percent of the costs of any cleanup measures, if required. The reimbursement of cleanup costs, however, is capped at 50% of the difference between the value of the remediated site and the school district's cost.

- Up to 100 percent of the assessment and cleanup costs at a site to be acquired by a school district eligible for financial hardship assistance.

SB 993 (Hayden). Vetoed by the Governor, this bill would have, among other things, required a task force led by the Secretary of Cal-EPA and the Secretary of Health and Human Services to establish standards and guidelines to govern the initial assessment process, preliminary endangerment assessment, and any site mitigation.

SB 324 (Escutia). The text of the bill requires the Department of Toxic Substances Control to report to the Legislature, by January 1, 2001, identifying financial barriers to the restoration and reuse of contaminated property. However, the author's intent, as stated in the analysis of the Senate Environmental Quality Committee, is to develop language to 1) authorize cities and counties to order the cleanup of brownfields, or to carry out the cleanups themselves and recover the cleanup costs; and 2) to clarify the legal status of a document known as the Certificate of Completion. SB 324 is pending in the Assembly Environmental Safety and Toxic Materials Committee.

Conclusion

When handled correctly and adequately cleaned or mitigated, brownfields can provide sites for safe neighborhood schools. In some communities, this is one of the few options open for meeting the dire need for school space. This hearing is meant to obtain input from professionals in the field on how the state can further facilitate the cleanup of brownfields for use as schools where alternatives do not readily exist.

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SENATE SELECT COMMITTEE ON ENVIRONMENTAL JUSTICE

Summary Report on the hearing: Brownfields to Schools - How Can the State Facilitate Cleanup to Build Essential Schools?

Held January 14, 2000 in Los Angeles

Purpose

Environmental injustice occurs where environmental degradations are overconcentrated in low-income and minority communities. Because a disproportionate share of "brownfields" -- vacant or underutilized sites that may be contaminated from prior uses -- are located in low-income and minority communities, cleaning up these sites and promoting their reuse helps alleviate the historical injustices affecting these neighborhoods.

At the same time, California's school-aged population continues to surge. School districts around the state face a dire need to construct new facilities to meet the demand for classroom space. However, in many communities, especially older urban areas comprised of low-income and minority neighborhoods, there are very few parcels of available land large enough to accommodate a school. As a result, a district must choose between demolishing existing homes and businesses or looking to brownfields.

Cleaning up brownfields for use as schools can bring a double benefit by both removing an eyesore and potential source of exposure to the community and providing the needed classroom space. The purpose of this hearing was to provide members of the committee with a common understanding of the current regulations and funding sources related to brownfield cleanup for use as school sites and to solicit and hear discussion of various proposals that would allow the state, where necessary, to facilitate the assessment and cleanup of contaminated sites to create safe schools.

Brief Synopsis of Speakers' Remarks

THE NEED TO CONSIDER BROWNFIELDS FOR SCHOOLS AND THE CURRENT PROCESS

I. Lettie Boggs, Anaheim Unified School District and California's Coalition for Adequate School Housing

Ms. Boggs testified that school districts often need to consider new school sites with potential contamination because there are no other options in their communities. Schools need to be near the communities they serve and transportation facilities. Many urban areas, however, are built out, meaning that building a school on obviously clean land may require the removal of homes and businesses which can carry a high economic and political cost. While land is more readily available in rural areas, otherwise ideal sites may be contaminated with pesticides or other toxics. Even when cleanup costs are factored into the equation, a district may find that the benefits of a contaminated site make it a superior choice to the alternatives.

Ms. Boggs said that the challenge to school districts to cleanup and reuse brownfield sites is increasing. The project must fulfill the needs of the new school and the local community as well as comply with the criteria set out by the California Department of Education (CDE), the Department or Toxic Substances Control (DTSC) and the California Environmental Quality Act (CEQA). Funding for new school construction is not available until the need is imminent which puts a high premium on the ability to quickly turn around a project. Lastly, districts must bear the full cost of cleanup for any portion that exceeds the final appraised value of the property. The cost and delays of the current assessment and cleanup process heavily constrain a district's ability to use brownfields as school sites.

In response to Senator Alarcón's question as to how the Anaheim Unified School District works with the community on a proposed school site, Ms. Boggs responded that the district first consults city staff for suggestions as to which sites may be available, then consults the appropriate neighborhood council for input. Anaheim USD has developed long-term relationships with councils throughout the city. With the input of the city and the neighborhood in mind, the district begins the formal selection process which includes an environmental review, and the required opportunities for public comment.

II. Bill Panos, Los Angeles Unified School District, Environmental Health and Safety Branch

Mr. Panos testified that the Los Angeles Unified School District (LAUSD) needs to add at least 150 new schools over the next few years. Even these will not be enough to completely reduce overcrowding in the district. The District is currently in the process of rebuilding its site selection process, its relationships with the community, and its communications process. These are part of the long road of reform.

Mr. Panos stated that the district's site selection process has previously lacked due diligence. Furthermore, the money available for school construction and environmental

management does not meet the need, and there is a lack of objective agency standards for determining whether a potential site is safe for children and staff. Compounding these difficulties is the fact the district has over 150 projects under environmental review and a lack of staff to handle the volume in the most timely manner.

In spite of these difficulties, the district is fully committed to building all needed schools in needed areas and has put in place new staff, communications and information processing systems to proceed as quickly as possible. The Environmental Health and Safety Branch can now list the site history of a specific property in 30 minutes and complete a preliminary assessment in 48 hours. The district is formalizing a process with state agencies such as DTSC to move environmental reviews more quickly. The bottom line is that the district now has the ability to screen sites up front and know the cleanup costs and schedules required.

The cumulative costs of these environmental health assessments are large and the District needs help. The District's current experience is that Preliminary Endangerment Assessments (PEAs) range from $100,000-$200,000 if nothing is found. Phase I assessments cost $5000, and each initial review costs $120. Mr. Panos also said that the State needs to set objective cleanup/health standards for school sites that are flexible enough to deal with varying environmental conditions and that are generally accepted.

Ms. Wendy Umino, staff to Senator Martha Escutia, asked where the district intends to find the land for the primary centers that have been proposed. Mr. Panos replied that small tracts are more readily available than large tracts, that the district owns much land that can be converted to schools, and that existing school sites can be expanded.

Senator Alarcón requested a tally of the district's overall financial need for environmental assessments and cleanups which Mr. Panos promised to provide. Senator Alarcón stressed that he wants to district to do a better job involving communities in site selections and demanded that the district quickly adopt a site selection policy that has been pending since May, 1999. The Senator also requested specific recommendations as to what cleanup standards the State should set. Mr. Panos closed by stating that schools can provide the anchor for the redevelopment of brownfields if the remediation is planned from the beginning.

III. Barbara Coler, Department of Toxic Substances Control

Ms. Coler laid out the process by which a new school site must be evaluated for environmental concerns under the newly enacted legislation (SB 162 and AB 387). In addition, she stressed that the new authority allows the Department of Toxic Substances Control (DTSC) to stop a project for environmental reasons.

In order to access Proposition 1A funds, a Phase I environmental assessment must be conducted for each and every prospective school site in the state. A Phase I review consists of a "paper study" which details the historical uses of the property and indicates any potential for contamination. DTSC reviews this assessment and makes one of the following findings: 1) that no further action is required; or 2) that concerns about contamination exist and the district must conduct a Preliminary Endangerment Assessment (PEA). In response to Senator Alarcon's

inquiry as to how DTSC knows the information in a Phase I assessment is accurate, Ms. Coler responded that DTSC staff fully review the documents, look for gaps in the information provided and frequently conduct site visits to provide confirmation.

The PEA entails site sampling and the development of a detailed risk assessment of any contaminants present on the proposed school property. The calculated risks of any contaminants are weighed against the risk ranges that are outlined in the National Contingency Plan (the regulations for the Federal Superfund law) and considered appropriate for residential uses (the most conservative approach). There are no risk ranges designed specifically for school sites. It is not necessary for a property to have zero level of risk, but rather that the risks be within acceptable levels. For example, cancer risks are generally such that less than 1 person in 1 million would develop cancer from normal exposure. DTSC reviews this more detailed assessment and makes one of three determinations:

- No further action is required;

- The project may proceed straight to cleanup. This determination is possible for sites with relatively uncomplicated cleanup needs. A Removal Action Work Plan (RAW) is prepared and once approved by DTSC after a 30 day public comment period, the district can then undertake the cleanup work. The whole process generally takes 6-12 months.

- The project must go through the formal cleanup process, which includes the following steps: 1) a remedial investigation; 2) a feasibility study; 3) a full-blown risk assessment; 4) a Remedial Action Plan with public comment; and 5) engineering design and cleanup implementation.

Public participation and involvement activities are conducted as part of the PEA and are more extensive for sites that undergo the RAW or full formal cleanup process.

IV. Mr. David Zian, State Allocation Board

Mr. Zian spoke to the issue of what assessment and cleanup costs school districts may receive reimbursement for from the State Allocation Board (SAB). Prior to the passage of SB 162 and AB 387 in 1999, the SAB funded toxic cleanup costs if they were included with the actual purchase cost and did not exceed the appraised value of the site, but it was very difficult for school districts to access these funds when they were financial hardship districts. Districts in financial hardship could not even afford the costs of site surveys, testing, and environmental assessment, which are all necessary to secure California Department of Education and SAB approval for a property.

As a result of the legislation, the SAB has proposed a new policy. Once formally approved by the Board, the SAB will generally share in 50% of the costs of site assessment and remediation. If a district meets the definition of being in a financial hardship, the Board can fund up to 100% of the assessment and cleanup costs. In both cases, reimbursement for cleanup costs cannot be provided for any amount that exceeds the differential between the district's purchase price for the property and the appraised value of the property after the cleanup is completed.

Under questioning, Mr. Zian mentioned that it appears LAUSD may have paid full market value for some toxic school sites up front, rather than deducting these toxic remediation costs from the appraisal value. This means the district could be ineligible to have any cleanup costs reimbursed on these properties.

Senators Solis and Alarcón expressed a need for more flexibility to reimburse school districts for cleanup costs that may exceed the final appraised value in the event where no feasible alternative sites exist. Senator Alarcón also stated that districts need an opportunity to request additional funding from the SAB if cleanup costs end up being higher than that originally allocated by the board. Given the complexities of toxic remediation, costs may often exceed initial estimates. Mr. Zian stated that under current law and regulation this opportunity does not exist and is not provided for.

ROUNDTABLE DISCUSSION ON MAKING THE PROCESS WORK BETTER

V. Jennifer Hernandez, California Center for Land Recycling

Ms. Hernandez raised the issue that the inability to cleanup brownfields has a disproportionate impact on minority communities. If "pristine" is the standard to be reached, brownfields, especially those in poor neighborhoods where the economic incentive is less strong, will remain blights on the community.

Ms. Hernandez testified that how clean is clean is currently determined site by site based on generally-understood but informal guidelines, derived from scientific studies based primarily on evaluating how mice and rats react to large doses of chemicals. As a practical matter, this process has resulted in numerous successful brownfields reuse projects - but it falls apart when a project becomes engulfed in political controversy. When this happens, and the debate turns to concerns about how clean the site needs to be, these informal standards are ignored and the whole project can be brought to a halt. Because school sites are always in the spotlight, the standards applied to the cleanup of a brownfield for a school site are always questioned.

Cities, schools, and non-profit developers seem unable to get through the site remediation process. Informal guidelines that disappear in the face of controversy don't work, and the process of getting to these standards is simply not accessible or "transparent" enough for interested parties who are not experts in the environmental remediation fields to have confidence in the regulatory process. Ms. Hernandez argued that it is time for open adoption of numerical, risk-based cleanup standards for soils, such as those that have been adopted in 27 states.

These standards, as applied to schools, could then vary based on the configuration of the property. A higher standard could apply to fields and landscaping than to portions of the property that are sealed over. Having a debate over standards is only useful, however, if something less than a "pristine cleanup standard to bedrock levels" can be successful. Otherwise, projects will be shut down, the dirt removal will be massive, and communities in areas of Los Angeles and elsewhere that are located over natural formations such as oil and gas

production areas - which have safely existed for a century or longer - will never have a new school.

VI. Tom Soto, LAUSD Environmental Safety Team

Mr. Soto testified that the creation of presumptive standards for the cleanup of school sites will surely be a key issue top be dealt with over the next few years. He added that LAUSD's district-wide policy on environmental justice will also help move the brownfields issue forward. Environmental standards that are set will be used to determine school sites. The cooperative relationship with DTSC that the district has developed through the Voluntary Cleanup Approach at three sites will mature.

Mr. Soto stated that dealing with this issue really comes down to funding. An interagency approach is needed that identifies funds at the federal level and directs them to state and local agencies that prioritize sites. The single largest thing that needs to happen, however, is a collective understanding that identifying funding, determining who is responsible for cleanup, and applying standards to a particular site are vital to the task of turning brownfields into an economic and social benefit for the community. There needs to be an understanding on the part of LAUSD that there is some economic incentive to invest in this area, and more leadership is needed to steer the district in the right direction.

Mr. Soto went on to clarify that the LAUSD has not in fact formally adopted a community involvement process for their site selection efforts. Instead, there has been direction from the COO to develop a community engagement program, but it has yet to take effect at this time.

Senator Alarcón raised the issue that too many studies are being done and not enough schools are being produced. Before conducting detailed studies of every possible site, he argued, the district should be considering environmental and political factors, including taking community input into account. Senator Alarcón stated that he wants the district to have a community involvement process for site selections in place immediately, because working with the community is key to successful school site selection.

VII. Connie Rice, English, Munger and Rice

Ms. Rice raised three issues to be address if we are to successfully use brownfields for schools: 1) the need for cleanup standards based on the health needs of children, not animals or adults; 2) the need for cleanup funding; and 3) the need to reverse the State Allocation's Board disbursement of school construction funds based on the date of request rather than need.

Ms. Rice testified that the funds that have been allocated to date to this problem are simply inadequate. She stated that future bond measures will be needed to make headway. Achieving such funding will require that the community be educated on the scope of the need.

With regard to existing funds, Ms. Rice stated that resources must be allocated to facilitate the participation of neighborhood groups in the cleanup process so they have a voice.

In addition, the SAB's policies for distributing Proposition 1A funds must be reversed. The voters approved the bond with the understanding that funds would be allocated based on need. Instead, the SAB uses deadlines that effectively reward speed over need. Those districts who get their applications for funding in first get access. For districts that have to deal with brownfield issues, it is almost impossible to compete on speed. While the enacting legislation for the bond contains some minor problems, this issue could be addressed through the SAB's procedures. Pressure is needed to assure the SAB allocates funds based on need. Ms. Rice argued that funding should be allocated based on the eligibility assessments which LAUSD has already submitted.

VIII. David Beckman, Natural Resources Defense Council

Mr. Beckman focused on three things that would immediately facilitate the use of brownfields for schools.

- Existing cleanup standards may be imperfect but have been well thought out and in place for a long time. Before we rush to criticize these standards, we need to identify what is wrong. A major problem is that implementation has been decimated by budget cuts. Flaws in the standards are distorted by imploded DTSC infrastructure. Providing for adequate staff levels at DTSC will greatly improve the existing system and greatly increase the safety of schools and how quickly they can be built.
- The state should direct schools to categorize brownfields. If the desire is to build quickly, we should focus our energies and resources on sites that have less troublesome histories, such as old warehouses rather than chrome-plating facilities.
- The Legislature should revisit SB 993(Hayden) which marries many of the concepts heard in this hearing. The bill leans towards the establishment of look-up standards for schools and requires that they be based on children's health needs rather than the needs of adults. Research has shown that the timing of the dose is equally, if not more important, than the amount of the dose. A bill that marries these two concepts seems to offer the broadest spectrum of stakeholders something.

In response to Senator's Alarcón's concern that the state of research on health effects on children may not yet be adequately advanced, Mr. Beckman said that a fair amount of child-specific information is available already that can be built in to standards. In addition, he argued that the state should take a lead in promoting this research to fill in any gaps. Senator Alarcón cautioned that we need to be careful of getting ahead of the science.

IX. John Gamboa, Greenlining Institute

In negotiating Community Reinvestment Act commitments with banks, the Greenlining Institute has sought to make financing available for the redevelopment of brownfields. While many banks have committed to making such loans, the funds have not been adequately used due to the underlying uncertainty over future liability. Another problem Greenling has encountered is that community residents have been left out of the whole brownfields debate. As a result, Greenlining is organizing more than 200 organizations in the Los Angeles area in the Brownfields Coalition.

Mr. Gamboa stated that the community has substantial knowledge about the brownfields in their community, but a lack of confidence. The process has no place of resident stakeholders. The solution he proposes is twofold: 1) Provide residents with access to good, reliable information from panel of scientific advisors so a community does not have to rely on the advice of potentially biased experts from the development or environmental community; and 2) Develop stringent minimal cleanup standards that community residents can easily look to and understand.

X. Greg Trimarche, State Bar Environmental Law Executive Committee

Mr. Trimarche said that he had heard three problems during the course of the hearing: 1) making sure that funds are properly allocated to needy schools; 2) setting appropriate cleanup standards for contaminated sites; and 3) ensuring adequate initial screening of brownfield sites to ensure resources are not wasted pursuing studies when a site is not likely to ever pan out.

With regard to the first two problems, Mr. Trimarche believes existing structures can address these issues. He believes that the third issue is the most pressing and that we do not necessarily have the right people in place to solve it. He stated that a better process is needed to quickly screen and evaluate brownfield sites for potential redevelopment. It is not cost effective to do PEAs on 150 sites if only 10 are likely to be used. Instead, a huge body of expertise in this area exists out there in the private community. School districts may not be the right organizations to charge with the daunting task of performing the screening function. Mr. Trimarche proposed the establishment of an entity to help school districts to do initial screening and determine if it makes sense to go forward with more detailed assessments.

XI. Paul Hernandez, New Schools Better Neighborhoods

LAUSD faces a crisis that whose solution seems remote: the need to build more than 100 new schools. In addressing this crisis, achieving flexibility with respect to the Proposition 1A application deadlines is of critical importance. The environmental standards need to be defined in a way that all of us can understand them. It is also clear that the community has been left out of the process of school selection in Los Angeles, ultimately leading to greater delays and costs. NSBN has been advocating more effective community participation within LAUSD. NSBN has run a demonstration model for community involvement in the Wilshire Corridor area, which participants have commended. Mr. Hernandez suggested LAUSD adopt a community engagement process that will allow community members to become intimately involved in the siting, design, planning, and construction of new school facilities. He argued that the state needs to put pressure on LAUSD ensure community involvement becomes a reality. Unless the community is involved, we are not going to make progress on building schools in Los Angeles.

XII. Robert Garcia, Environmental Defense Fund

Mr. Garcia focused much of his remarks on an example that raises many of the themes that had been raised by the hearing. He is working to have the 47-acre Chinatown Cornfields brownfield site for a green and clean school and park, rather than for warehouses like those being proposed by Majestic Realty. Mr. Garcia argued that joint use for a school and park would meet

the real needs of the community. There are no middle schools, high schools or parks in Chinatown. In addition, if warehouses were built, the Mead low-income housing project would be hemmed in between the warehouses and the men's jail. While the school district is interested in the site, the possible presence of contaminants, the lack of cleanup standards, and the uncertain cost of cleanup are significant issues that must be resolved. Majestic Realty has requested federal funds to make the deal profitable. These dollars could potentially be used to clean the property for a green and clean school and park.

Mr. Garcia proposed an environmental justice framework whose goals would be 1) to have equitable, environmentally sound and economically vital schools and parks; 2) to have information available to assess the impact on all communities, including (a) a readily available list of sites that could be considered for schools and parks and (b) standards defining how clean is clean enough for schools and parks; 3) the equitable participation of all communities in the decision making process; and 4) the construction of schools and parks in a way that results in neither intentional discrimination nor discriminatory impacts.

Closing Remarks

Senator Alarcón said there seems to be consensus about better involving the community is the site selection process. He would like to continue the discussions regarding additional funding for DTSC to more quickly review environmental assessments and even help with initial site reviews; look at how Prop 1A funds are being allocated and ensure that need is indeed the primary basis for awarding funds; unify our efforts in seeking federal assistance for the cleanup of brownfields; and create a process for establishing clear cleanup standards.

Senator Escutia's staff reminded participants that the Senator has pending legislation, SB 324, which crafts solutions to many of the issues raised, including the provision of environmental restoration tools for local governments, limits on future liability, and property screening guidelines. The Senator invites all interested parties to work closely together on this legislation.

Committee Recommendations

Community Involvement

Experience has shown that effectively involving the community in all aspects of decision making on new school sites, especially those where contamination issues are at play, is vital to success. Neighbors and parents who are not consulted may oppose a project, often resulting in the project being delayed or abandoned. Moreover, parents who are not comfortable with the cleanup of a contaminated property may refuse to send their children to the new school. All school districts need to develop and implement community involvement strategies that allow community members to become intimately involved in the siting, design, planning, and construction of new school facilities.

Cleanup Standards

The current process of establishing cleanup standards for a specific property suffers from a lack of clarity and certainty. This in turn results in the waste of time and resources in the pursuit of infeasible projects and makes it difficult for members of the community to actively participate in decisions related to the standards. The development of clear "look-up standards" for all brownfield cleanups, including a standard specific to schools, is needed. Over time, as the research on the special susceptibility of children to toxics advances, this information should be incorporated into the standards.

Funding

The ability of school districts to convert brownfields into safe schoolsites is hampered by a lack of available financial resources at various levels. Even with the state funding 50% of the assessment and cleanup costs, many districts have insufficient funds to tackle complex restorations of a property. In addition, the establishment of a cap on state funding at the appraised value of a clean property negatively impacts lower-income neighborhoods where property values are inevitably lower. Adding to these difficulties is the fact that DTSC has insufficient staff to review assessments and oversee cleanups and schools must pay for these services.

The approaches that were offered all generally emanate from the idea that although school districts need access to brownfields, they should not be the ones to bear the societal costs of cleaning these properties. Both the state and federal government have an interest in seeing blighted properties restored to a productive use beneficial to the community. The ideas to financially facilitate the cleanup of brownfields for schools included:

- Seeking additional federal funds for cleanup costs and clarifying that these resources can be used for school sites.
- Using state General Fund dollars to cover the costs of DTSC's review of environmental assessments and oversight of cleanups.
- Revising the cap on state reimbursement of school assessment and cleanup costs to allow for cases where feasible alternative school sites do not exist and to rectify the inequality of funding between high-property value and low-property value sites.
- Allowing school districts to go back to the State Allocation Board for additional cleanup funds if original cost estimates prove to be insufficient.
- Hiring additional staff at DTSC to provide a more timely review of environmental assessments.

Screening Entity

School districts are meant to be experts in education, not environmental assessment. It may be helpful to establish an entity that taps existing expertise to provide school districts with quick initial reviews of properties for environmental contamination and help them categorize brownfields so that energies and resources are focused on sites that have less troublesome histories.

SENATE SELECT COMMITTEE ON ENVIRONMENTAL JUSTICE

Brownfields to School Sites – How Can the State Facilitate Cleanup to Build Essential Schools?

Los Angeles, California
January 14, 2000

Senator Richard Alarcón, Chair

SENATOR RICHARD ALARCON: ...in regards to schools. We have been struggling for years and years and years to find the resources to provide more schools to our children so that we can build a more positive future. And because of numerous disconcerting and egregious, really, actions and events related to large projects of school building, as well as small projects, we have really undermined the confidence of just about everybody in the State of California with regard to the Los Angeles Unified School District's ability to build schools. Some of the problems have emerged elsewhere in the state. But primarily, the Los Angeles Unified School District has found a way to provide opportunities for us to understand just about every environmental conflict you could ever imagine.

We know, of course the history of Belmont. We know that there is no site selection process in place at the school district that is consistent. An auditor's report that I called for last May determined that there is no consistency with regards to how the LA Unified selects their sites, and they certainly do not consult with the community when they do it. And in fact, as a result, they have cost the taxpayers' dollars and created more, have increased the level of, or I should say, have decreased the level of confidence from the public. Notwithstanding that, we have more and more kids, and we

know that the population, in terms of the schools or community search, we thought we were doing the right thing when we voted for Prop. 1A. You would have thought that that was a tremendous opportunity for us to build schools and unify communities but the results have been almost the opposite.

We will explore, I think, briefly, to the extent we can make it brief, some of the egregious problems and some of the testifiers will explain some of the problems we've seen. But the bottom line for this hearing is this is the Select Committee on Environmental Justice. If I could just state my perspective on why I asked Senator Burton to create this committee and why I asked to chair it, the history of environmental justice, you know, the term is relatively new but the history is long, indeed.

Simply stated, environmental justice to me is the creation of or is the use of policies that negatively impact depressed minority, economically depressed and minority communities in a different way, either intentionally or unintentionally. And I can't think of an issue where we have seen more problems in this area than with regard to building schools because it's everywhere. Given the student population, the vast majority of students being the minority, and increasing numbers of students in poverty and working poor, we're trying to locate schools where they are. And given that we have almost saturated completely every inch of land in LA and certainly every parcel that's larger than five acres, we typically, whenever we're building a school, are somehow negatively impacting the minority and lower-income communities. Conversely, these are the communities that have the most to gain by correct action.

The bottom line for this hearing is that we're going to have a discussion, probably some debate, and I hope that people will realize that – I don't believe Senator Escutia -- and I can tell you that I certainly do not have a predisposed position on this -- but the question is, is there an acceptable

threshold that we can set that is less than pristine for where school sites can be built? And if so, what is that level?

Once defining that level, then we can target the sites that might be available for the schools. Of course, it's complicated by policies that impact the kinds of schools that are going to be built. I can say very simply that I do support, say, the focus now on small schools, pre-K schools, the K-3 small-site schools, as the priority for building. But sooner or later, we're going to have to build high schools and we can't avoid that, and I can't imagine that we'll be able to build high schools in any configuration on two acres. This is not feasible. Even if we go up, I don't see that happening. So I am having this hearing to hopefully publicize the debate that is going on behind the scenes, between those who argue that we shouldn't build any schools on any site if it has any kind of negative environmental degradation or those who believe that we should define some acceptable level and determine what that level is.

The other, I kind of hit on it a little bit, but one of the other choices that the district has to make is whether to demolish existing homes and businesses or to try and find sites that are undeveloped which in Los Angeles is almost like a needle in a haystack. And so how do we do that?

I was telling somebody yesterday that, you know, it almost seems, that if you're in a neighborhood that is targeted for building a school and you don't want them to build in your neighborhood, then just go get a barrel of oil and dump it in your backyard and you might be able to just stop building the school. I'm being facetious but I don't think we're far from that, so we have some tough decisions to make.

I think we put together a very good panel. I want to thank Mark Stivers, my staff member. And having said that, let all of you know that he will be spearheading this issue in my office, along with – did you lose me? Can you hear me? I was commenting, that when they said state-of-the-art, they weren't talking about this state. (Laughter)

Okay. This is an informational hearing, clearly. I don't have – I just had predisposed agenda. We hope to learn from what I think is a very good representation of the issue who will be participating.

So if I might, let me introduce, and let say Senator Escutia, obviously with regard to her legislation, is deeply concerned about this issue, as demonstrated by the legislation. But she wanted to be here. Unfortunately, her grandmother had a serious accident and she's having surgery this morning so we wish her well.

So Wendy Umino is here representing Martha Escutia. I told her that, you know, it's kind of hard to be Martha Escutia. (Laughter) But I told her, please, ask freely the questions that the Senator might ask, so she's a full participant in this hearing.

With that, I'd like to introduce the first panel. Did you want to make a comment?

With that, I'd like to introduce the first two speakers, and we would ask that you take five minutes to speak. And after all the speakers have spoken, we would like to engage in dialogue and go from there.

Okay. The first speakers, with regard to the need to remediate brownfields for school sites in urban areas, is Lettie Boggs from Anaheim City Schools and CASH. And I'm sure you'll tell us what CASH means. And Bill Panos from LAUSD.

I understand, Bill, you have to leave...

MR. BILL PANOS: In about 40 minutes.

SENATOR ALARCON: Forty minutes. Okay.

And, Bill, could you state your – you're Director of Environmental...

MR. BILL PANOS: Director of Environmental Health and Safety for the Los Angeles Unified School District.

SENATOR ALARCON: Is this some kind of oxymoron or something? Just kidding.

Okay. Lettie, thank you for coming.

MS. LETTIE BOGGS: Good morning. Thank you for this opportunity.

As student enrollment continues to increase in California, the challenge of finding appropriate school sites must also increase.

SENATOR ALARCON: Can everybody hear?

THE AUDIENCE: No.

SENATOR ALARCON: Okay. Can't hear at all.

MS. BOGGS: Hello? Better?

SENATOR ALARCON: Can you hear in the back?

MS. BOGGS: As student enrollment continues to increase in California, the challenge in finding appropriate school sites has also increased. Site selection involves very complex balancing of the positives and the negatives with respect to every school site that has been looked at as a potential.

The site has to meet its criteria established by the California Department of Ed and the Department of Toxic Substances Control, the California Environmental Quality Act, the school board, and the local community also to have a criteria for each school site selection. And the project itself defines some criteria that should be considered in that selection.

And yet due to the funding process for schools, we don't actually have a chance to start. Well, _____, we don't have the funding to begin until _____. Therefore, time is a very precious commodity when we begin the process of selecting a school site.

There is also a significant cost to any remediation that has to be done to a school site. The districts share in the cost of those projects. Most districts share significantly or very significantly in that cost. And when cleanup involves a significant infusion to the cost of those projects, it means that in some way the scope of that project – the size, the scope, the quality of

that project -- must be reduced in order to accommodate the cleanup that's involved on that site. In those cases where the actual cost of cleanup exceeds the value of that land when a cleanup is completed, the school district must bear that cost entirely. The state does not share at all in that cost when it exceeds that final value, so that's a very difficult situation for districts.

With all of these constraints of time and dollars against the use of any compromised site, one would ask: Why would you ever consider even looking at a compromised site or at a brownfield site? Well, the reality is those are very often almost the only answer to the dilemma. In urban areas where parcels, all the parcels, eventually have a land-use history that might pose a problem under the current criteria, you're in a process of either condemning homes or taking very compromised _____. Condemning has posed an economic and a political cost that can be very high, and it may also reduce affordable housing in areas where affordable housing is already at a shortage.

School sites should also be near the population that they serve. Schools are part of a community; and when you remove the school from that community, it makes it more difficult to engage with the families in that community and the activities at the schools. And also transportation of students out of the community to another location for schools is an expense that has to be borne by the general fund of a district, and that means there is less dollars to spend in a classroom when you spend your dollars on transportation. So when a school site is analyzed and there are issues _____ cleanup that has to be weighed against the benefits of putting that school in a local community _____.

There's also the difficulty of developments of land-use approval. If land-use approvals for homes continue to be made in areas where it's difficult to site a school because of other constraints, that student population that comes from those homes still have to be housed in some kind of school; and

yet, we can't put a school in an area where the homes are being approved. And there is currently no coordination between the ability to approve home sites and the ability to site a school in the area where significant homes are approved.

In rural areas, _____ difficulty in placing _____ for agriculture. We use the pesticides through the years _____ sites very difficult to clean. In urban areas, they have growth that's occurring in the school district that do not have any correlation at all to _____. _____ in Anaheim where I _____ we're growing at a tremendous rate _____ existing communities that are already built out, so there are already uses predominantly throughout the community and something has to go out in order for a school to come in.

This process of selecting schools, as it's become more complex, the cost keeping, _____ the timelines get longer and longer. At the same time that we have more and more pressure to house additional students in the state, the school districts in California are really looking for solutions. We would welcome assistance in getting sites cleaned and ready for use prior to the point at which we begin the school process, so timing is very significant to us now and the cost of a remedy is extremely high.

SENATOR ALARCON: Could you describe the process, two processes, one for site selection and one for determining the strategies for or the process for environmental cleanup?

MS. BOGGS: Okay. That sounds like a real echo. Is it okay?

UNIDENTIFIED SPEAKER: That's the best we can do right now.

MS. BOGGS: The process for selecting a site, it can vary from project to project.

SENATOR ALARCON: Let me ask specifically. Do you have a site selection process procedure?

MS. BOGGS: We have a procedure that we go through frequently framed by the requirements that we must comply with for the Department of Ed, the State Architect, and ?? DTSC.

SENATOR ALARCON: Does the process include working with the community to identify your site?

MS. BOGGS: Yes. I think most school districts in the state work close with their community. You have to do some beginning work, look around, see what's out there in your community. And people that do these selections...

SENATOR ALARCON: Can you tell me what the process is and how they work with the community?

MS. BOGGS: Well, basically we start with looking at available land in the community. We use the Parks and Recreation department staff, the Redevelopment Agency staff, we have community neighborhoods in Anaheim that are defined by the state. We work with those _____ potential areas. Once we've identified some, then it kind of comes out of the public arena and we do some homework on those sites. We look at what's been there recently.

SENATOR ALARCON: You said when "it comes out of the public arena." I didn't hear the "public arena" in there.

Do you have public hearings?

MS. BOGGS: Not yet. The community neighborhood groups have people that are very aware of the community issues, and we're working with select people until we get...

SENATOR ALARCON: When you say the "community neighborhood groups", is that defined by, under what authority?

MS. BOGGS: The City of Anaheim. I know Santa Ana does it. I think it's fairly common. It has defined neighborhood communities. Those communities have evening meetings.

SENATOR ALARCON: You have selected representatives?

MS. BOGGS: And they have selected representatives.

SENATOR ALARCON: So it's kind of like LA's Neighborhood Councils?

MS. BOGGS: Probably. So we use that because that's an already existing community voice that's out there.

SENATOR ALARCON: Do you also consult with them in the initial stages to identify sites for you?

MS. BOGGS: Yes. In fact, we're usually aware of their issues because, in attending their meetings and dialoging with them through the years, we know where they're not happy already. So as we see our needs coming and we know the areas where we need to have more schools, then we begin to look for solutions that would solve both those issues. Then after we do our homework on the sites that are out there, then we begin a more formal process of going; and previous to the new legislation _____ process of coming through, having public hearings and workshops, and discussing what the pros and cons and getting public feedback to that forum. We're now having to modify that somewhat based on some of the new criteria that are coming through.

Then it also goes to the school board meetings, which is a public forum, and works there _____.

SENATOR ALARCON: With regard to the process for cleaning up?

MS. BOGGS: When a site requires remediation, and this is changing right now for school districts and they're significantly changing, due to the new legislation, previously, we usually defined all of that within the CEQA process and mitigation of monitoring plans that had to occur within the CEQA process. Now there will be significant work prior to going into that CEQA process _____ and that would be through DTSC.

SENATOR ALARCON: I don't remember hearing about any major problems in Anaheim with regard to building schools.

MS. BOGGS: That's because they haven't built any new schools in 35 years.

SENATOR ALARCON: Okay. You have not built any new schools?

MS. BOGGS: We are currently in a program. We are currently under construction at one school. We will be starting two more this year, and we are doing site selection for five more...

SENATOR ALARCON: And that was the result of Prop. 1A?

MS. BOGGS: Yes. There was finally a criteria whereby when development was not the only source of growth, that was not acknowledged _____. You had communities where the growth was occurring as infill of existing housing. There was no mechanism to have new schools, so we are finally being able to address the _____.

MS. WENDY UMINO: Lettie, you mentioned at the closing of your statement that the state should get involved in cleaning up the land where you've identified sites already as potential school sites.

So you have brownfields in the Anaheim area that you know that schools could possibly be built on these sites but that you don't have the money to clean it up; and so that if the state were to clean it up, that it would be easier for you to know where these schools should be and which sites to clean up or which sites school districts should choose in order to clean them up?

MS. BOGGS: I don't have a formalized system of brownfields. I know because I know the community; I know the areas where there are the type of site where there's been previous industrial or commercial use but has now remained vacant for many years because the cost of making that land clean and usable defeats the value, the market value, of that property. Those are very difficult right now for schools to look at, because if we go in and clean them up, we'd only receive reimbursement to the level of the value of that property through its market value. So any costs, in addition to what that

market value is, the school district has to come up with that funding entirely separate. So because it adds such long timelines, because it adds such significant dollars to the project that thereby reduce the scope of project _____, we tend to not look at the use of brownfields. Even though that might be a good site, the constraints against using it are very heavy right now.

SENATOR ALARCON: Okay. Bill Panos from LAUSD.

Thank you very much.

MR. BILL PANOS: Thank you very much for inviting me to testify today. I will be providing you written testimony as a follow-up to this. Any information – I should say that our staff will be here throughout the hearing. So even if I have to leave, there will be some LA Unified School District staff that will be here and I believe one of our Safety Team members will be joining your next panel, which is great. And also, if there's any information that I can't provide or I need to give you any further information, not only can I provide that into written testimony but any follow-up information, I would be happy to provide you. That's one thing that, and I'll talk a little bit about my findings from coming to the district in the last four months. But certainly the provision of information and having good and accurate, understandable information out of the district is something that we are continuously improving. So I'm going to give you as much information, new information, that we have about where our school sites are and our site selection process and some of the other issues that I may not be able to fully address today but I'll give it a try.

SENATOR ALARCON: Which part were you continuously improving?

MR. PANOS: All of our communications and information management systems.

Our school district is rather large. As you know better than I, 700,000 K-12 students, 900,000 total students in the district, over 67,000 employees, 930 schools and centers, and you're going to be adding at least 150 new schools over the next few years, a few months, and that's not going to be enough. We're going to be needing to add more schools than the 150 that we currently have planned.

Let me just say, that as a member of the new management team, I started about four months ago or so, and there were some things that I observed when I came into the district and I wanted to share some of those with you.

One is, there appears, there appeared then and we are continuously improving how we process environmental _____, at least health and safety work, how we process our new sites, how we process decision making inside of the district without – it's not done, not nearly done. We've just started the process of rebuilding that. I think the auditor's report helps. I think that having outside folks look at what we do and give us suggestions and then we act and follow up on those helps and that should continue so that we have the kind of objective support that we need.

We found that our relationships, relationships, not only internally but different parts of LA Unified School District's organizations but our relationships with outside organizations needed to improve, and we are on track _____ Environmental Health and Safety with our site selection process to improve those relationships.

We found that communications were, at least from my perspective, were inconsistent and we're looking to improve those communications. In fact, one of the principles of me coming onto _____ is that our communications are transparent, our process is transparent, and we work hard, diligently, to do that. And if we can do any more to do that, I think we can. And any more suggestions that we may not be doing, we want to hear

those suggestions so that we can make our process and our communications as transparent, our information as transparent, as possible.

We found that we have management problems. We have management problems throughout the district. I work for Howard Miller, and he and the team that he's brought in are working diligently to improve those management problems. So we're starting to resolve some of those things but there's much more work that needs to be done. We have a long road of reforms that we need to employ in this district and part of those reforms being continuous improvement.

As it relates to site selection, we need to focus – well, one of the other findings that I have about site selection, what I call "diligent processes", is our ability to go and clean schools and get schools built, is again, there was this lack of information or frankly due diligence process at all. It was inconsistent at best, and we found that we needed a new process in new partnerships, not only with those people who are involved in identifying sites like the real estate organization, the facilities organization, the building sites, but finance folks, as well as the agencies that we work with as we go through environmental assessments and cleaning sites so we're working on those now.

We found that there wasn't enough money to deal with it. And some of the things that you pointed out earlier that the money didn't match the needs of the sites. We're still working on that and I think this hearing will help us to identify how we can better map the dollars to the needs of particular sites.

There was poor scheduling at these sites. We would have a number of sites that the schedules would change and no one would know what they were, and now we have a better ability to schedule how many sites that we're running, that we're running through. The lack of objective standards, you talked about it earlier...

SENATOR ALARCON: How many sites are you processing right now?

MR. PANOS: It varies every day. I get a new report every day. That's how quickly we are moving. Of sites that have gone through feasibility, we're probably – if the numbers changed this morning, and I don't want to give you an inaccurate number...

SENATOR ALARCON: Give me yesterday's number.

MR. PANOS: The yesterday number on environmental assessments, that I'm doing current assessments on, is around 150.

SENATOR ALARCON: A hundred and fifty.

MR. PANOS: That I'm looking at now.

Now some of those sites...

SENATOR ALARCON: How many sites have been approved?

MR. PANOS: How many sites have been approved?

SENATOR ALARCON: How many sites are you prepared to present to the state, in the state allocation process?

MR. PANOS: I have to get you that number. I don't want to give you an inaccurate number. I want to make sure I give you the right number.

If you remember, environmental health and safety is one part and I would say probably about 20 percent of the entire process, the other 80 percent is our real estate facilities, facilities to maybe site selection processes. So I see in my organization, as the sites come in, I see them for about 20 percent of the time. So I know what your question is.

SENATOR ALARCON: I have no idea what that means. (Laughter)

MR. PANOS: Well, if the process has 100 steps, okay, I'm involved in 20 of those steps. I've seen them come into my organization and my process. CEQA, California Environmental Quality Act process, and then the environmental assessment process. And then once I can deliver...

SENATOR ALARCON: I'm just trying to figure out how many schools are being built.

MR. PANOS: And again, I can give you that.

SENATOR ALARCON: How many schools are being built?

MR. PANOS: I don't know. As I said, I want to give you an accurate number and I'm happy to give you that. I can make a phone call...

SENATOR ALARCON: Is it more than three?

MR. PANOS: I'm sorry?

SENATOR ALARCON: Is it more than three?

MR. PANOS: Yes.

SENATOR ALARCON: Is it more than five?

MR. PANOS: I would assume so.

SENATOR ALARCON: We're getting into a gray area here.

MR. PANOS: I want to make sure I give you an accurate number so I can...

SENATOR ALARCON: Well, we know it's minus one this week.

MR. PANOS: I can literally step outside of the room after I'm done with my comments and I can get you that number and get it back to you. I just need to make a call to get the right number, but I don't want to be here giving you an inaccurate number. It changes frequently.

SENATOR ALARCON: If we can kind of expedite your comments, I would appreciate it.

MR. PANOS: Sure.

SENATOR ALARCON: I would like to know exactly what processes and procedures have been put in place --

MR. PANOS: Sure.

SENATOR ALARCON: -- that address these issues.

MR. PANOS: Okay. Let me get to some processes that have been put into place.

Let me add that, so we have the money, the scheduling, the objective standards, effective assessments, staffing problems, literally in the LA Unified School District, I can say that we had probably three staff people

dealing with all of the site selections that were going through and only part time. Now we've brought on the level of resources that can deal with the workload that's coming through but it's not enough and we need more help to get the sites processed. So the things that we put into place to follow through with what you asked is new staffing, new communication systems...

SENATOR ALARCON: New or additional?

MR. PANOS: New ability to track and manage...

SENATOR ALARCON: Are you saying "new" or "additional"?

MR. PANOS: These are both new and additional staff, new and additional communication systems, new and additional information processing systems.

Let me just give you one example.

We didn't have the ability to have a unique name for school sites. You would call it one thing; I would call it another; and we would look at our information management systems and there would be three or four names. Well, now we have, what we call a unique identifier for each school site. Whether it's used as a school site or not, as soon as it's identified, it gets a number and that number stays with that site forever as it goes through the entire process.

SENATOR ALARCON: We call that an address. (Laughter)

MR. PANOS: But for a project, there may be ten sites that we're looking at and so we have to give a unique identifier, literally things like that. I know that sounds very specific but that's the kind of thing that the management team has to do to get control over the sites, and that's an example of better management of information so we have improved information management systems.

We are committed to building all of the schools that we need to build but safely and in all the areas that they are needed. And we need better control over the cost, the timing, and the legislative support systems. We

need more assistance from the state to do that. This helps having these kinds of hearings.

SENATOR ALARCON: I haven't heard anything specific from you yet.

MR. PANOS: Okay.

SENATOR ALARCON: Can you offer anything?

MR. PANOS: Sure, a couple of things. One, again, as I've said, we've brought on new consultants and contractors and new staff to help us manage the sites better. Two...

SENATOR ALARCON: That's a tradition at LAUSD.

MR. PANOS: And we've gotten rid of the contractors and consultants that weren't producing the kinds of results...

SENATOR ALARCON: So you've got some musical chairs. You still haven't defined why this is better.

MR. PANOS: Second, we've been able to put in a new site selection process that is currently functioning which involves a series of progressively more rigorous environmental assessments as a site is identified.

SENATOR ALARCON: One of the comments in the audit was that the school district does not take the community into consideration or the community is not involved in the selection process, and the result of that has historically been, including after the new school board started, has ultimately resulted in delays and additional costs. I'm aware that, at least as of May of last year, there was a draft site selection process that was presented to the board.

Does the board now have a community involvement site selection process in place?

MR. PANOS: Yes.

SENATOR ALARCON: Do you have a copy of it?

MR. PANOS: No, but I can provide it to you.

SENATOR ALARCON: Okay. And the board has approved this?

MR. PANOS: The board has seen it. Whether or not they have approved it...

SENATOR ALARCON: And has it been implemented?

MR. PANOS: You're asking – yes, it's being implemented now. I believe it was just presented to the board...

SENATOR ALARCON: How many schools has it been implemented at?

MR. PANOS: Again, you're asking the organization that doesn't give community outreach on new school sites. That is done by the real estate organization. I think that it's very important that you get Kathy Whitman ?? here who is our new school...

SENATOR ALARCON: You get her here.

MR. PANOS: Of course. I'm happy to bring her there. I didn't know that that was the question that was going to be asked. And if I did know it, we would have that process here and we would have her here.

I can tell you what we're doing in Environmental Health and Safety to improve community outreach, but I'd like to finish answering your question about the site selection improvements that we've made in Environmental Health and Safety to improve the way that we look at sites and assure their safety.

The first is that we've created a series of these progressively developed assessments. For instance, you can get me an address. And within a half hour, I can have searched all of the required Education Code lists and Environmental Code lists and Health and Safety Code lists to see whether or not that site has pipes underneath it, whether or not it has underground tanks, whether it's a listed hazardous waste site, and we're putting that now literally on our palm pilot so that we can sit in meetings, put in addresses, and get that information on a regular basis. That capability was not there

before _____. We now have the ability to do what we call preliminary Phase I assessments where we can, in 48 hours, get any site that you bring, any site that a board member brings, any site that a community brings to us and determine whether or not that site would possibly be considered for a Phase I assessment, which is a limited environmental assessment and get through that process and seek approval from DTSC for that, or, whether or not that will need to go to a preliminary endangerment assessment, and we can identify funding and scheduling right then, within 48 hours, of a site being identified.

Third, once we have gotten into a decision, whether we do a Phase I environmental assessment or preliminary endangerment assessments, we're building new agreements and new standards for both of those with the agencies currently so that we can get through those processes faster, better, more accurate. Now they're not perfect yet because we just built those things, but they are improving and we're going to continue to improve it. That is going to streamline the Phase I environmental process and the PEA (Preliminary Endangerment Analysis) process more than ever in the history of the _____ and so that we can get through it faster, plan them better, cost them out better, and plan for how many sites we need and where we can put them, and plan for what I call Brownfield Development and Remediation. One of the problems has been in the past is that the district hasn't had the ability. They would walk into a site; and because of the lack of process and the lack of decision making, we would run into problems, I think, that I had read in some of these documents that you had provided – the Belmont problem and South Gate. We stumbled into those things, and there was some bad process there. But now we have the ability to filter that out. You won't see that. In fact, you'll see it within a half hour of a site being considered. You'll see that there are tanks or pipes or other things, and you'll see it in a preliminary Phase I. You'll see it again in a PEA process.

We have the ability now that we've never had before to screen sites and to assure that they're safe early on in the process. Those are some of the specifics that we have put into place in terms of process to improve our ability to look at sites, to assure that they're safe, to know how much time they're going to take, and know how much they're going to cost. That's in place today and we've been running it since last December and it looks, and it is not perfect. We started it last December, it needs adjustment.

SENATOR ALARCON: You mean last month?

MR. PANOS: Yes. But that's the process that we put in place and it's not going to address all the problems, but I think it's a good start and at least something that we haven't been doing before that I think we'll get to a lot of these issues that are here. But, by the way, those processes cost a great deal of money and we need help to not only identify economic resources to deal with those improvements...

SENATOR ALARCON: How much would that cost?

MR. PANOS: Well, for right now, the average PEA, preliminary endangerment assessment, is costing us from $100,000 to $200,000. That's if we don't find anything – per site -- the average Phase I is costing us anywhere from $5,000 to $8,000. I'm getting discounts on them because I'm doing them in volume to bring it down and keep it at around $5,000 but that's per site. I can do the preliminary endangerment assessments, anywhere from $2,000 to $3,000. And those _____ screens, I get for $120.

SENATOR ALARCON: How do you do the math? How much was that?

MR. PANOS: Well, it depends. If I go to a site and I spend $120...

SENATOR ALARCON: So you have no specific proposal? You said it cost a lot of money but you're not telling me how much.

MR. PANOS: I didn't know that one of the things that you wanted before I came to the hearing was that you wanted to identify how much the

total cost that the district was spending on environmental assessments was. I'm happy to provide you that information...

SENATOR ALARCON: I'd be very interested.

MR. PANOS: Okay. I'd love to, because now...

SENATOR ALARCON: You think it's more than $25 million?

MR. PANOS: Do I think it's more than $25 million? I should tell you that I had done a rough sketch, literally me sitting at home one night and trying to sketch this out, and the number came, the total number, for all of the current cleanups that we're doing, plus the assessments that we need to do based on the sites that we have, I'll tell you was around that number, but I haven't checked that number with anybody. I need to go back, and we're actually doing that now for another purpose, actually to identify the cost of environmental health and safety throughout the district's sites, assessments, and other. And I would love to give you a follow-up letter to more clearly identify, once I have a chance to check my numbers.

But you know what? You're thinking of around the zone...

SENATOR ALARCON: Actually, I was thinking about South Gate.

MS. UMINO: I have a question.

MR. PANOS: Did I sufficiently answer your specific, your request for more sufficient information?

SENATOR ALARCON: I would like more information. I would like to see the community selection process that you said is in place and being utilized.

MR. PANOS: Sure.

SENATOR ALARCON: And I'd like to know which schools, which sites, where that process has been utilized, because that's clearly contrary to what the audit said. And as of a couple of weeks ago when the audit was released, the district said there was no policy in place. So I'm surprised that

in two weeks they have implemented a policy that was not in place two weeks ago.

MR. PANOS: _____ started in December with that new site selection process.

SENATOR ALARCON: This was after December.

By the way, the audit said that the district was continuously downplaying hazards, and I think you, I would like information to demonstrate how the district is not downplaying those hazards, what devices do you put in place to ensure that that does not occur.

It also indicated that cost estimates were not accurate, entering into the project after the project.

MR. PANOS: Does he want something about how we're dealing with that? Okay.

SENATOR ALARCON: I would also like information about how the state might assist in participating in site selection and cleanup processes.

MR. PANOS: Okay. I should say that they are now but I think...

SENATOR ALARCON: Particularly DTSC, yes. And then we'll have a speaker from DTSC next.

Wendy.

MS. UMINO: Bill, recently LAUSD decided not to go forward with the school construction project in Senator Escutia's district in South Gate High School and Elementary School. And while she supported the board's decision, because as a parent she knows that she wouldn't want to send her own kids to a terribly contaminated site, she has concerns about the alternative plan to meet the overcrowding at South Gate schools.

LAUSD is converting middle schools to high schools and several elementary schools into middle schools, but the district also plans to build one _____ school at 13 primary centers. Where is the land for these new schools?

MR. PANOS: The land is in the community and the land – there's several answers to that. One, the land is in the community and we need to...

SENATOR ALARCON: As opposed to the desert.

MR. PANOS: Exactly. It's where the schools are needed, and I think that that's one of the things that we found when we came on board was a couple of things, one, that we needed to look at new ways of how we're siting schools. One of them was to build smaller schools. We were looking at large tracts of land and they were hard to come by, especially in urban areas. Two, we weren't looking at our own property. We have a lot of property. And I asked a question one day at a meeting.

I said, "Well, why aren't we just building on our existing school sites?"

And those questions have been asked at other meetings and it started a process of other folks from getting together and they made a decision to focus on existing school sites. We have an opportunity there.

We also have an opportunity to take where we are now and expand what we call our footprint, so it looks at expanding our existing school sites in those areas that they already are or are at and to change the nature of them. So I think it's about changing how we use our existing school sites, expanding our existing school sites, looking for smaller school sites. Those three things are what we're doing to try and find replacements for large tracts of land, industrial land, like South Gate, the one that you're referring to, and that's what's going on, and those are where the school sites are. They're in the community.

MS. UMINO: So you have 13 of them?

MR. PANOS: I want to make sure that we not only have identified 13 but that we have 13. Remember, the site assessment process and they filter some of these out or maybe put them in a queue, and in fact that's what we're doing. They don't ever leave. What happens is we put them in a category, okay, and while we're trying to use simple categories, it's a little more

complicated but it's really a green category, a yellow category, and a red category. A red would be like a South Gate, Belmont, Jefferson. We're not going to build there, okay? A yellow category would be, this site is going to take some work, and maybe we'll meet some either brownfield or we'll need some remediation of some sort or I think we can do a little more work with the agency and get that site approved by the agency, and green is a site that's clean. So we actually now have the ability to go through and put 13 primaries _____ I want to check, if I may, to make sure that not only 13 areas are proposed, but it may be anywhere from four to six properties are being looked at for every one of these primary centers, and I'm being asked to do environmental assessments on them.

More environmental assessments are being done today than ever in the history of the district. And every property that's being looked at by the district will get an environmental assessment.

SENATOR ALARCON: Including the existing sites?

MR. PANOS: Absolutely. As we go through and they're doing construction on the existing school sites, we are going to do environmental assessments on those school sites. As quickly as we modify them, part of the process is to do an environmental assessment, whether that be a Phase I or a preliminary endangerment assessment on the site.

SENATOR ALARCON: I'm going to move the hearing on, but we're going to need a lot more information from your section to continue this dialogue. I'm particularly concerned that we're not getting to the issue of where do we strike the balance between what is a clean site and what is not. And you said green, yellow, red. Green, I'm assuming, is a green light and that means full board ahead; yellow, there may be some issues. But the yellow – we're here to discuss the yellow because that's just about every site that you've selected lands. So what kinds of cleanups is LA Unified recommending? What level, what standard of cleanup are we targeting and

what do you think we ought to implement if the state gets involved with regulating the standard?

MR. PANOS: May I respond?

SENATOR ALARCON: Absolutely.

MR. PANOS: We have to come up with a standard that is both – this is a little difficult – objective but also flexible enough to deal with the current conditions, and they vary throughout the basin. We have very different hydro-geological environmental conditions in the valley than we do in South Central Los Angeles, than we do on the east side or the west side. We've got this oil field that runs through this entire LA Basin. We've got varying environmental conditions all over, and they have to be, they have to be both objective and flexible. And I know that's a difficult challenge and it sounds like that they're not consistent but I think they can be and in partnership with the agencies – with DTSC, the communities, the stakeholder groups that are out there – some of the environmental groups – have to agree with us. They have to say that those are okay standards, and I don't think we've identified that as clearly one of the things that we found here.

It was clearly a problem when I was doing this for the university system and it's a problem today that we don't have clear standards for kids. And the question is, what standards do we have for K-12; what standards do we have for all of our sports centers?

SENATOR ALARCON: What do you recommend?

MR. PANOS: Well, I don't think that the standards frankly are out there yet. What I recommend is what you're doing now, is to get people together for the agencies and for the environmental groups, for the communities, and for the districts. So if you put together in a room and to say come up with some objective but flexible standards because they don't exist...

SENATOR ALARCON: That's exactly our challenge but we need your guidance. This is your field of expertise. We need to know what you recommend, even if it's just a point of departure for debate. We're not getting that. We're getting that it may be different here or different there, but we should be able to come up with a matrix of issues that cut across all kinds of possibilities out there that we can apply to different, to have a sense of a threshold, regardless of what the issue is that we can address.

MR. PANOS: And I share that goal, and I think what we can today is to at least acknowledge that we need to do that. It's not been challenged before.

SENATOR ALARCON: That is our challenge, and I would like to direct, I would like to direct to you, to please provide this committee with that information. From the LAUSD's perspective, what kinds of recommendations, even if they're partial, can you give us so that we can have more clarity in our debate, so what the thresholds should be for acceptable brownfield mitigation or whatever we want to call it, but to allow us to build schools on sites of what levels of compromise, I guess, was the word that was used.

MR. PANOS: Okay. Thank you. And I'll prepare some input from some folks in the community and others, this kind of an approach. But it will be, you know, the draft _____ first stab at it. We're looking for more input, okay?

SENATOR ALARCON: Call it a discussion.

MR. PANOS: More definitive answer.

The last thing I want to leave you with is just this brownfield issue. I haven't had a chance to comment on it. This is a very important issue. We have an opportunity in our school district today, at this time and this place with the right kind of support from the state to help develop these urban

areas by using the school as a magnet for that, by using the school as an anchor for community redevelopment. We can't leave this opportunity.

When I was building schools for the California State University, we could stick a school in a community, like Chico or Stanislaus, and it would become an economic engine for that community. I believe, from my own experience, in my own opinion, that we can do the same thing in these urban areas by generating an economic and urban development through the schools, with the schools, if we have planned remediation, planned Brownfields, and not stumble our way into them, but that we plan them, we have the funding in place and the support in place to go ahead and move forward.

SENATOR ALARCON: The reason I called this hearing is to flush out that issue because, with all the major controversies in South Gate and Belmont and even Poly High School in the San Fernando Valley where I went to high school, we have created a situation where the public doesn't want you to build on anything with any kind of minor environmental problem. And simply in Los Angeles, if we're going to build schools where the kids are, we've got to figure out how to clean them. And so clearly, that is the purpose of this hearing, is to allow us, and particularly given the time constraints we have in regard to Proposition 1A and the funding. I mean if we do not develop these standards, we're not going to build schools. We're not going to finish building schools if we do not have an accurate threshold to all agree to a target and move forward on it. The communities will continue to fight every recommendation that's out there, from one angle to the next, whether it's May Company in San Fernando Valley or Jefferson in South Central.

But thank you very much. We've got to continue to provide more information on _____, particularly interested where I've seen weaknesses that have still not been shored up by the school district is how it engages the community in deciding where to put schools. It does not have, notwithstanding your comment, it does not have a policy in place. I dispute

that, and I hope you embarrass me by showing me how it does have a policy in place because I have never seen it and I called for it over a year ago or about a year ago. So with that, and please keep us informed as you, and certainly if you work with the DTSC, and we are working, of course, with that department to ensure that they are taking a more proactive role, more definitive role, in ensuring that the school sites are well suited for schools.

Thank you very much for your participation.

MR. PANOS: Thank you.

SENATOR ALARCON: I apologize to the audience for not sticking to the five-minute rule, but the school districts are failing the key element in solving this problem.

I'd like to bring up the next two speakers at the same time. We have Barbara Coler from the Department of Toxic Substances Control, DTSC; and David Zian from the State Allocation Board and a whole bunch of other folks. (Laughter)

MS. BARBARA COLER: Would you like me to begin?

SENATOR ALARCON: Yes, please, Barbara. Thank you.

MS. COLER: You know, I'm not sure if the mike's working again.

SENATOR ALARCON: Can you hear me back there?

MS. COLER: Good morning. My name is Barbara Coler. I am the Division Chief with Statewide Cleanup Operations for the Site Mitigation Survey. I'm in the Department of Toxic Substances Control. My division is responsible for overseeing and conducting cleanups at private-sector responsible party sites as well as state orphan sites. Additionally, we implement and have developed our Voluntary Cleanup Program, our Brownfield Initiatives, and we run the schools program as well.

With me here today are Hamid Saebfar, who you may have worked with, who's our Chief of our Southern California office in the division who manages, among other things in the school sites, LA Unified sites, among

other school districts in the area. Also Dr. Deborah Oudiz who is our Senior Toxicologist who is involved in most of the LA Unified or actually all of the LA Unified sites, as well as others in Southern California.

I'm going to briefly talk about what the process is that we do to evaluate sites which is consistent with the new legislation.

The first step is the Phase I Environmental Site Assessment. It's our understanding that the current statute requires that Phase I environmental assessments be conducted on all sites where proposed Prop 1A monies will be used. It's really primarily a literature search, aerial photos, a paper study. We have an agreement with the Department of Education, which we started in July of 1999; so when the new law hit _____ transition, we reviewed Phase 1 environmental assessments directly working with the Department of Education. These are forwarded by the school district along with the other materials that...

SENATOR ALARCON: May I interrupt, just to be clear on this, because I remember when the Joint Legislative Audit Committee had a hearing on this with regard to the -- it wasn't DTSC. It was the department that looks at oil fields.

MS. COLER: The Department of Oil and Gas?

SENATOR ALARCON: Yes. And they reviewed the process. But when we asked them, well, why didn't you say that you wouldn't build a school there? And they said that wasn't our function. They reviewed it but there was no authority or anything in place to drive them to make a recommendation.

MS. COLER: That's correct.

SENATOR ALARCON: And so when you say you're in a position to review the Phase I's, are you in a position to make recommendations with regard to Phase I?

MS. COLER: That's correct.

SENATOR ALARCON: Or better yet, are you in a position to stop the project, if necessary?

MS. COLER: We are in a position to stop the project from the environmental perspective, as far as other site selections, things that need to be done. Our review of the Phase I...

SENATOR ALARCON: And this is different than even recently?

MS. COLER: This is pursuant to the new legislation...

SENATOR ALARCON: As of 1999?

MS. COLER: The specific authority that DTSC must review and approve Phase I environmental assessments before it thinks it can go forward and other steps that I'll briefly talk (about) because I know we're running out of time.

So what we do is review those Phase I environmental site assessments. There's really two answers that can come out of that review: One is no action is required, which means there's no suspected or real contamination on the property and then we're completely out of the picture, or that we require that a preliminary endangerment assessment must be conducted on that property and I'll talk briefly about what that is.

At that point, the school district, we understand, has the option of dropping ?? a copy for further consideration. If they choose to go ahead and conduct a preliminary endangerment assessment, and what that is, is a combination of taking the Phase I information, including Phase II, which is site sampling information, and we also have a mini-risk assessment component in that document. So if they choose to pursue the preliminary endangerment assessment, the school district now enters into an agreement with the Department to have a _____ project to use and approve that process. We do have a color process when we start moving into the preliminary endangerment assessment phase which I can speak to, if you'd like to hear more on it.

At the end of the preliminary endangerment assessments, we can make three recommendations.

SENATOR ALARCON: Can I ask you to kind of get to the heart of the issue.

How do you define a clean site?

MS. COLER: Okay. What we do in the preliminary endangerment assessment is learn enough about the contamination that's there, where it is, what kind of contamination is there, to then take that information and put it into the risk analysis that's part of the preliminary endangerment assessment. It's something...

SENATOR ALARCON: But what guides you as to what the threshold is?

MS. COLER: Well, that's what I'm getting to. There's actually calculations that are done that you do at your desk with your calculator. And out of that, we come out with numbers.

SENATOR ALARCON: And what drives that authority? What drives that regulation or that standard?

MS. COLER: We develop that guidance pursuant to our need to evaluate the property.

SENATOR ALARCON: No, no, no. You're not answering my question.

MS. COLER: I'm not sure I understand the question.

SENATOR ALARCON: How do you define the standard?

MS. COLER: Well, the National Contingency Plan, which is the federal regulations for cleanup, has developed the process and the regulations that we follow.

SENATOR ALARCON: And it's specific to schools?

MS. COLER: It's not specific to schools. It's specific to cleanups that we conduct pursuant to the Department of Toxic Substances Control. Our law...

SENATOR ALARCON: Wait a minute. If it's not specific to schools, what good is it?

MS. COLER: Our law requires, that when we implement investigation and cleanups, that we follow the National Contingency Plan.

SENATOR ALARCON: But what if that's not good enough for schools?

MS. COLER: Actually, it's better that they're not for schools.

SENATOR ALARCON: Why? Why is it better?

MS. COLER: Because it leaves a very conservative approach. We're concerned, number one, that kids are going to be on these properties. We look at...

SENATOR ALARCON: Your approach is neither conservative nor progressive because it's bound by these standards. I want to know why you think those standards are acceptable relative to schools.

MS. COLER: Debbie, do you want to touch on that?

DR. DEBORAH OUDIZ: Essentially, when we evaluate a property for a school, we evaluate it under the same criteria that we would use if we were going to allow someone to live on that property. They would be spending up to 30 years on that property, both as children and adults. They would have a lot of contact.

SENATOR ALARCON: So the national standard is that level...

DR. OUDIZ: The national standard allows and it sets the framework for doing that.

SENATOR ALARCON: Okay. I'm not getting a clear answer here.

You told me that you based your calculation on a standard from this national whatever. Now you're telling me that you've got flexibility to modify that standard.

DR. OUDIZ: Let's take one step back. The national standard sets what is called "significant risk levels".

SENATOR ALARCON: For schools.

DR. OUDIZ: For any kind of property. It says, if you have a cancer risk that is rated one cancer in a population of 1 million, that's significant. That's what the national standard says. Then with guidance and different protocol that's been developed both at US EPA and in California EPA and the Department of Toxic Substances Control, we have ways to look at how can someone be exposed who's going to live on this site.

If they're living on this site and they're exposed to so much chemicals, then we assume that they...

SENATOR ALARCON: So you're saying that's a higher standard than...

DR. OUDIZ: Yes.

SENATOR ALARCON: ...so you're not basing your surveys on the national standard?

DR. OUDIZ: Well, on the significant risk level. Then we say they're exposed to the same chemicals, they're exposed to these ways, and they have a cancer risk, just using cancer as an example, of a certain number is that significant or not and that's the decision-making process that we have.

SENATOR ALARCON: And you have the authority to stop...

MS. COLER: Right.

SENATOR ALARCON: And you didn't, as I understand, you didn't have this authority prior to 1999?

MS. COLER: We've had authority to work on school sites as we have authority to work on any number of sites.

SENATOR ALARCON: "Work on" doesn't mean anything to me.

Did you have the authority to –

MS. COLER: Yes.

SENATOR ALARCON: -- stop the building?

MS. COLER: We didn't have the specific authority that now exists in the Education Code that says absolutely the Department of Toxic Substances Control...

SENATOR ALARCON: I want to make that a clear distinction because the onus is on you now.

MS. COLER: That's right.

SENATOR ALARCON: And I just want to make it clear that we take responsibility now that we did not have in 1998, and I know that I and my colleagues are very adamant about the state being involved and ensuring that these sites are safe to that center.

Now I still want to focus in on the issue of where the standard is, and I know that some of the speakers who will come up will argue as to whether your standard is the standard that we want. And so I hope that you have an open mind to hear that debate and decide whether in this region if that is an acceptable approach, but I do applaud you for weighing in very heavily to participate in the school site construction in a safe way and for taking on that burden.

MS. COLER: Well, actually, we're very glad and we take it very seriously. And, sure, we've talked to our director. But I do want to say, at the end of this preliminary engagement and assessment, we have three answers.

One is, no further action, and again, the Department _____. We want to also emphasize that that's not zero levels left on the site. So levelness protected for children and residents is on the site, so there can be contamination on the property.

SENATOR ALARCON: Is there a simple way to describe the acceptable level? I know it's probably different in different communities, but is there a simple, like you said one part per...

MS. OUDIZ: When we look at a cancerous – and the reason I'm not saying, you know, certain concentration of a chemical because we have more than one chemical that can change. But when we look at type of performance standard is that we don't want to have cancer risks that exceed one excess cancer in a population of 1 million people.

SENATOR ALARCON: So that's basically the standard?

MS. OUDIZ: Yes. And that's what we use as kind of our threshold for whether we think there could be a significant risk at a site or whether it's below that and that's cumulative...

SENATOR ALARCON: I have to ask you this question, and before I do, I want to recognize the presence of Senator Hilda Solis. Thank you for joining us.

SENATOR HILDA SOLIS: Thank you. I apologize for being late.

SENATOR ALARCON: I am, as a second-year, now, Senator, I have to tell you that I'm so pleased that Senators Escutia and Solis have agreed to participate in this committee because their work has been outstanding in this regard.

My question is, in fact, the audit showed that one of the problems historically at the school district with regard to building schools was that their environmental information was not accurate.

What level of confidence do you have in which, because I'm sure you're relying on information that they're providing you. I know, once you get into the sampling, then you have a little more control. But in Phase I, it sounds to me like you're relying almost 100 percent on what they're providing you. And if that's the case, given the history, what gives us the confidence that the information is going to be accurate?

MS. OUDIZ: Well, what we do, when we were given the Phase I, which is really more the paper study, is we look to see what pieces are missing, and there is the standard developed by the ASTM for conducting Phase I's. And we looked to see: Are the pieces complete? We also do site visits because we want to make sure that what if they miss something? If we go out there and we see other – there's the drum that somebody spilled in the backyard. So we do conduct site visits, we do have older sites.

In the preliminary endangerment assessment of the phase, we review the work plans up front.

SENATOR ALARCON: I think you've answered my question. I think the point that I'm trying to make for the good of the debate and all parties present is that we know the history of LA Unified with regard to providing information that is not necessarily accurate, with regard to their initial assessments of environmental problems. So that compels us to have a closer scrutiny of the project. Secondly, you now have the authority to stop it and that is significant. And again, it compels you to ensure that they're doing an accurate report.

But I still, I still, you know, I'm not sure that all of the problems _____ LAUSD, if any, were intentional. Like you said, they might have just missed the stuff. They seemed to have missed a lot of stuff. So even though they may not do it intentionally, I still would ask that you be very careful to scrutinize. But again, the focus of this hearing is to determine whether the standard that you are holding and presenting is a standard that's acceptable and that allows us to move forward quickly in deciding where a school should be located.

I would like to move forward, but, please, I appreciate your participation and will continue to work with you as we try to build the schools.

MS. COLER: And we'll be happy to provide more specific information.

SENATOR ALARCON: Thank you. And I believe some of the speakers who will be up in the next panel should be paid close attention to.

Thank you.

Okay. David Zian from the State Allocation Board.

MR. DAVID ZIAN: Thank you, Mr. Chairman and Members of the Committee. I want to thank you for letting me come in and talk a little bit about our situation at our office.

I'm a manager of Program Services with the Office of Public School Construction. And as such, we are basically staff at the State Allocation Board. And as you are probably aware, the State Allocation Board is charged with allocating dollars for K-12 public school construction. And we basically work up the staff items that make recommendations for funding allocations to school districts.

So without further ado, basically, as far as our role at the Office of Public School Construction, in terms of sites and how we fund them, basically we are the funding authority. We provide funds for school construction and for the purchase of sites, and we look for certain things. And I know we're getting a little later so I'll try to cut to the chase.

Basically, if you're a school district and you're not in a financial hardship situation, we will basically share half of the costs associated with the purchase of the site. And before we approve the funding allocation of a site, we look for certain things, such as, we've heard some discussion from DTSC. If there's a dirty site involved, we need to see that the Department of Toxic Substances Control has cleared that site and that, secondly, the California Department of Education has also approved the site. So we get certifications from both these agencies that basically substantiate the fact that these sites are clean and free of toxics. So we're basically, we basically are of the opinion: Bring us the clean sites and we will fund them.

SENATOR ALARCON: There are a couple of things. I want to ask about your level of competence, given the recent experience. But I also want to ask, if we're here to discuss what measures must be taken to clean a site, and we've heard of the stories about just about everywhere you look, the sites need to be cleaned up, it would seem to be essential, in terms of building schools, to assume that there needs to be allocations for cleaning up a site; and yet you're asking for a clean site to be presented.

MR. ZIAN: Actually, Senator, prior to AB 387 and SB 162, we did fund the cost associated with toxics and all that, but it was more difficult, especially when you move over, I was talking about a normal 50/50 district. When you get into a financial-hardship district, and what that means is basically the state is funding the entire cost of the site and the school construction project. In those cases, it was very difficult, prior to these two bills that I just mentioned, for a school district to even access the funding because they didn't have money for things like site surveys, preliminary environmental assessments, the Phase I. They just couldn't do any of these things to prime the pump to get CDE to approve it to pay for a DTSC and so on. There just wasn't the money there. They don't have any money. You know, the presumption on a 50/50 district is that they have money and they're sharing in the costs so they can go and do _____ activities to get these things to get it in to get it funded. But in a financial hardship, they're really in between a hard and hard spot before these two bills came along. And essentially all these districts could do is basically go out and get a loan maybe to pay for some of these activities.

SENATOR ALARCON: So now describe the process.

MR. ZIAN: Okay. Under the AB 387 and SB 162 bills, we have a proposed policy that will essentially allow for our office to make recommendations to the State Allocation Board for full funding or for partial

funding, if you're 50/50, with preliminary approvals basically by CDE and preliminary appraisals.

SENATOR ALARCON: That includes cleanup costs?

MR. ZIAN: That would include the cleanup costs; that's correct.

Now there is two things we look at. We look at the actual appraised cost. And if the appraised is a clean site value versus the actual costs – and with those actual costs, that the school districts need to be cognizant that they need to include the toxics remediation cost in that figure. So if you have it appraised as a clean value of, say, $2 million – I'll use that as example – the school district, if they know they have a toxic, dirty site, they better ascertain what the costs associated with the toxics are and not pay $2 million.

Let's say in this example there's a $2 million appraised clean-site figure and they find out that it's going to cost roughly $500,000 to clean that site up, they want to pay, what, $1.5 million for the site, add on the toxics remediation cleanup costs, and then you have a $2 million actual figure, plus the toxics remediation, compared to the appraised value in our regulations, and the law basically specified that we fund one-half of the lesser of the appraised value or the actual costs. They get the costs.

SENATOR ALARCON: And in fact we have seen that the recent history of LAUSD is that they do not appropriately assess what the cost is going to be in terms of cleanup. So they get an allocation but it's not sufficient to cover the cost of purchase and cleanup.

MR. ZIAN: You want me to comment on that?

SENATOR ALARCON: Is that basically...

MR. ZIAN: Let me just say that it appears, in some cases they have paid the full value of the sites.

SENATOR ALARCON: You know, you were the only person in California who was cautious when speaking about LAUSD. I applaud your compassion.

MR. ZIAN: I don't have a lot of detail beyond that, but in some cases, they have paid the full value rather than driving down the costs, you know, to identify what the toxic...

SENATOR ALARCON: Up front.

MR. ZIAN: ...pay a less value.

SENATOR ALARCON: So I guess basically what you're saying is that the State Allocation Board is aware of the reality of needing to clean up these sites and does not hold it against an agency if they need to clean it up and in terms of funding, but obviously they have to meet certain standards.

MR. ZIAN: Senator, let me add, though, that what I talked about in terms of the proposed policy for these two bills, that will be going to our State Allocation Board, kind of what I outlined here will basically allow districts to get early site money in a toxic situation or in any other situation if they have, again, like a preliminary approval from CDE and, you know, like a preliminary appraisal. But the board will have to basically approve that policy, so we'll hopefully be operating on that very shortly.

SENATOR ALARCON: Now what threshold do you hold in terms of what investment you're willing to make and also how clean the site has to be? Do you have any standard with regard to cleanliness or is it just driven by costs?

MR. ZIAN: Senator, I'm not sure if I understand your question. Are you asking the threshold for when we have a comfort level to recognize the funding approval for a site?

SENATOR ALARCON: I think ultimately that's the decision you have to decide. But I'm asking, number one, do you have an environmental

standard beyond which you will not fund, regardless of the economics of it? And number two, is there a cap on the cleanup cost?

MR. ZIAN: Okay. First of all, the second question, there is no cap on the cleanup costs, as long as they recognize and include it on the actual purchase price value that we compared to the appraised value.

SENATOR ALARCON: And once they've gone past the stage of where you allocated, you never go back and give them more?

MR. ZIAN: That's correct...

SENATOR ALARCON: So if their assessments initially are wrong, tough?

MR. ZIAN: That's right. So there needs to be an accurate assessment.

With respect to your first question about do we have some threshold that we look at, and I'll be honest with you, Senator. We defer to California Department of Education and DTSC. They have knowledgeable experts on staff that evaluate the hazards associated with these sites.

SENATOR ALARCON: But once you get that clearance, you assume that it can be done to whatever standard?

MR. ZIAN: That's correct.

SENATOR ALARCON: The question is, the question that's key here, is what standard does DTSC hold. Okay. Very good. Thank you.

SENATOR SOLIS: Mr. Chairman, I guess my question is, at what point then, if you find that the appraisal is not adequate that you're alerted, what action plan is prepared at that time by your office? I mean, what recommendations do you make? Is there any way that you go back out and make a personal assessment or do you have DTSC do that? What is the scheme?

MR. ZIAN: We review the, we have regulations that govern what the appraisal needs to contain in it. And as far as an appraisal not being adequate, if you mean adequate in terms of --

SENATOR SOLIS: After it's been approved...

MR. ZIAN: -- toxic problems?

SENATOR SOLIS: Right, after it's been approved.

MR. ZIAN: Well, let me mention again, this was a new program that was brought in by Proposition 1A that was approved by the voters, you know, in November of '98, basically, and it essentially set up a per-pupil grant. And once we make allocations, including funding allocations for sites, they're full and final. So it's really a local-level decision, and it's incumbent on districts to, you know, to cross all the t's and dot all the i's to make sure that they have these costs identified so we can recognize them when we go to the board for funding allocation.

Now let me just say that there is always an outside...

SENATOR SOLIS: So in other words, if the district is not adequately prepared because they don't have the tools and technique available to make an appropriate appraisal and they goof, the state then is not obligated to try to help rectify it in any way. I mean, that's your take on this?

MR. ZIAN: One could say that, but let me also say that our State Allocation Board has members of the Senate and the Assembly, plus some members of the administration, on their board. It's a seven-member board, and they do hear issues like this and I've heard them historically, you know, not exactly this kind of situation. But the board is sympathetic oftentimes to mistakes that are made. We're all human beings and mistakes are made occasionally. And the board has in the past, you know, made allowances, you know, outside the normal...

SENATOR SOLIS: I guess that's what I kind of want to hear from you, in that we're making expenditures and it's all coming from typically one source of funding, via the state to the local districts, and that we would all have some obligation to provide whatever assessment tools and technical assistance that might be needed. I mean I know that the district, yes, has

some very major problems. But I also know that the state, especially these various departments that are involved in this, also need to help step up to the plate as well to provide whatever assistance, so I want to hear more about that in the near future.

SENATOR ALARCON: I want to clarify what I think we've heard you say. You said there was no cap on cleanup costs. However, did we hear you say that it could not be more than the appraisal value?

MR. ZIAN: I guess, yes, in essence, it's semantics here. There is a cap and the cap is that we're going to compare the actual purchase price, including toxics remediation. That's the cap to the appraised value. The appraised value for a clean site. And the law and our regs basically say we compare these two values and we pay one-half the lesser of the two values, or 100 percent of the lesser of these two values, then it's a financial merger.

SENATOR ALARCON: So the cap is the appraised value?

MR. ZIAN: Yes. I guess there is an...

SENATOR ALARCON: And we know that sometimes the cleanup costs will be more than the face value.

MR. ZIAN: That's correct. But that's where again CDE –

SENATOR ALARCON: So we'll just leave the place dirty.

MR. ZIAN: -- and these agencies hopefully will identify where there's a really – you know, let's say that there's a Site A and a Site B and one has just, I'm going to use the word "humongous", humongous problems versus this other site that maybe has a lot less problems.

SENATOR ALARCON: We're familiar with these terms.

MR. ZIAN: So I would hope that the district would go to Site B, you know, where there's less problems, less costly things and other issues going on there. That would be the hope.

SENATOR SOLIS: We would hope that but in many instances, unfortunately, we're also trying to meet calendar deadlines for trying to

provide facilities for the increasing enrollment here. And I just feel that we're not all on the same page here, in that we're not working together in really trying to provide, knowing what we are faced with, this whole issue of trying to build schools and facilities that are in safe, somewhat safe, somewhat safe, areas. And this goes beyond this LA Unified because I represent a whole bunch of single districts down in the San Gabriel Valley who also have the same problems. And I would hate to have them hear the discussion as well that, oh gee, going into this, you're already going to lose. And if you don't have the technical skills and assistance available, and they're strapped. I mean where are they going to find...

SENATOR ALARCON: In fact, I would envision, I could envision a situation where you have a school district that can't meet that standard anywhere.

SENATOR SOLIS: Right. They're not going to do it.

SENATOR ALARCON: They simply can't find a site where the litigation is going to be – well, I should mention the communities but there are some communities where there's heavy manufacturing and hardly any residential. If they put a school in there, there's nowhere that they can clean it up for the appraised value.

Now what considerations does the Allocation Board make for – what is the best possible site for a school, and it goes past the appraised value. But all other cost factors included, it is just the best site because of the density...

MR. ZIAN: If you pass the bar under the normal protocol that I was talking about, what our regulations require as a staff basically, and we get into this kind of this nebulous area you're talking about, you know, at that point, you know, basically, it is incumbent on...

SENATOR ALARCON: I actually don't think it's better. I think it's actually more common than the reverse.

MR. ZIAN: Yes. I think so.

SENATOR ALARCON: And so I think we need to – and I'm not criticizing that you got what you got, but I'm just trying to figure out where to go so I'm looking at how can we give the State Allocation Board more flexibility to move beyond particular things? And at the same time, given the experience, particularly in LA Unified, to hold them to the strict standards so that they don't just kind of do a flimsy Phase I and then get the money from the state. And then if we gave them a second option to go back to the State Allocation Board to where they find something underneath that they didn't know was there, but there has to be certain standards and procedures in place that they must meet that criteria. If they don't meet that criteria, they don't get a second bite of the apple.

One of the possibilities we might want to look at is giving schools the second bite of the apple, to clean up where they can show that they couldn't have possibly anticipated the cleanup process that they found when they went into the dirt. So that's one of the purposes of this, how can we assist in building schools? And so we want to work with you on assisting – because I know that it's probably frustrating to the Allocation Board in terms of the limits they have.

MR. ZIAN: Well, I think you really hit a nerve here. There are a lot of sites out there that have been approved in the past under different procedures. I don't want to say lax but they were different criteria, and maybe some of these 30 sites did slip through here and districts are going to be trying to build on those sites, and that's the second bite of the apple you're talking about because they've already been funded and they may need to come back into the ward and say, look, I have a serious problem here. I know you paid for this site but there's toxics remediation. And these two bills I just mentioned do not really cover that second bite of the apple you're talking about so...

SENATOR ALARCON: We also might want to look at some kind of a cleanup fund where corporations can donate for schools for cleanups, specifically cleanup purposes, and knowing their history, and maybe they weren't able to solve all their problems but they contribute to this fund that goes into mitigating for the specific purpose of cleaning up land for schools. And maybe we can create a funding stream for you as well. Those are the kinds of things that I want to look at.

Your testimony has been very, very helpful, I think, in terms of debate, and we will continue to obviously dialogue, but the key components for the public's purposes are the State Allocation Board. DTSC is now heavily engaged in the process and those are great improvements.

MR. ZIAN: And CDE too, of course. Both of those agencies...

SENATOR ALARCON: And who?

SENATOR SOLIS: California Department of Education.

MR. ZIAN: California Department of Education --

SENATOR ALARCON: Oh, of course.

MR. ZIAN: -- basically works with the Department of Toxic Substances Control. We look for both of those things when we have a bad site.

SENATOR ALARCON: I do want to mention that I have had conversations with Winston Hickox, the Director of EPA, and he's very much alerted to this problem and has been very helpful and instructive.

Thank you very much and we'll probably continue this discussion as we get closer to identifying that threshold that I spoke of.

Thank you very much.

Oh, I'm sorry. I had one other question.

One of the complaints that I received from the school district is, that before they can get consideration for an allocation, they have to have plans; they have to have architectural plans. I hope you were here when Mr. Panos

spoke about all the environmental impact studies and costs, and he said something like $25 million was needed just right now, just to do those studies. And yet, if they don't have their plans, they can't ask for the money. But if they don't, you know, it's like a vicious cycle.

MR. ZIAN: If they haven't...

SENATOR ALARCON: No, I wouldn't call it a vicious cycle, not chicken and the egg, but how can we...

MR. ZIAN: Let me just say this, first of all, that the new program that's established by Proposition 1A and it had the SB 50 component that sets up the school facility program, which is where our office is operating and allocating funds under, is basically driven by, as you know, you have to submit BSA (Bureau of State Architect) group plans to get the full funding grant for the project.

SENATOR ALARCON: The one question I didn't ask Mr. Panos, that I would ask my staff to ask them and get back, is: How many schools do they anticipate being at that level? In other words, how many schools do they anticipate being prepared to submit plans to you for funding in June, I believe? Is it June?

MR. ZIAN: Actually, our board meets every month.

SENATOR ALARCON: So they can submit the applications...

MR. ZIAN: And we process basically date order received.

SENATOR ALARCON: How many have you received from LAUSD?

MR. ZIAN: I'm sorry. I can't, I don't have that number off the top of my head.

SENATOR ALARCON: I would like to get that.

MR. ZIAN: There are quite a few in the middle right now, but we do not have any, I don't have any good numbers for you.

SENATOR ALARCON: But I believe it's probably very few, if any, and the reason is they haven't found the sites. And without the site, they can't do the plans. And without the plans, they can't apply.

SENATOR SOLIS: Vicious cycle.

SENATOR ALARCON: It's a vicious cycle. I want to work with you to see if we need to work on legislation to give you increased flexibility.

Now on the other hand, when I go to the community and tell them that the school district is complaining about them, they say, well, we'll be damned if we let them submit plans before they do their Phase I. There's no way because they simply don't trust them.

So I'm working with you but I want to share both ...(side 4)...

I'd like to move forward very quickly. We have a whole slew of folks. I'm going to call as many – I think we have enough chairs. So Jennifer Hernandez from the California Center for Land Recycling; Tom Soto, LAUSD Environmental Safety Team; Connie Rice, English, Munger and Rice; David Beckman from NRDC; John Gamboa from the Greenling Coalition; Greg Trimarche from the State Bar Environmental Law Executive Committee; Barbara Coler, Debbie Oudiz – oh, we would ask you to come back up; Hamid Saebfar; and Paul Hernandez, New Schools Better Neighborhoods; Robert Garcia from the Environmental Defense Fund.

In that order, I would like you to, if you could get to the real heart of your presentation and, please, I apologize for extending the presentations in the past, but I hope you'll appreciate that the elements that were presented are absolutely essential in establishing a foundation for this discussion. But your roles, I think, are ultimately going to be the most significant, in terms of what we decide as a community and to what standards we want to set for building schools, in terms of their environmental safety.

With that, I'd like to have Jennifer begin. And again, if you can hone in on the key points. You're certainly welcome to present any written

information to my staff, Mark Stivers, and frankly I will probably have another hearing and give you more time to express your comments and also to hopefully share information. If you have written information, I would urge you to share it with each other because we need to have this base flushed out in order to find solutions.

Jennifer.

MS. JENNIFER HERNANDEZ: Thank you, Senator, and thank you very much for convening this panel. The issue that you raised at the beginning of the hearing, the two issues – first, whether there was an inadvertent or intentional disparate impact being felt by minority or lower-income communities, along with the issue of, is there any threshold less than pristine which is going to be acceptable; and if so, what is it and how do we get to it pretty quickly? Really, is the rate of manifestation of a very, very long running and a very pretentious debate. And part of the chemistry and the emotions surrounding this issue has to do with the beginnings of that debate, which was, on the one hand, a group of polluting industries, and on the other hand, a group of environmental and community activists saying no to pollution. And that's a black-and-white debate. Why did you pollute our communities? We want all pollution gone.

The enforcement context in which that debate grew up has yielded programs like the state and federal superfund, which has been very good for people like me, a lawyer. We fight for years. And among the things we figured out how to fight about is how to get to this issue of how clean is clean, and that's how this issue gets framed in this traditional environmental-versus-polluter debate, how clean is clean.

Over the course of time, and in particular, prompted by the economic recession, it scared a lot of us. We figured out how to get to the how-clean-is-clean question on a site-by-site basis using missed ?? assessment methodologies that have a lot to do with mouse-and-rat studies and

extrapolating mouse-and-rat studies to people. And that, believe it or not, is how this environmental cleanup process works to date. It works actually pretty well until you put this kind of spotlight on it and you start asking real questions. And when you do that, you can actually blow up anything.

More than 250 sites are now in or going through the DTSC voluntary cleanup program which has actually been a great model for people who want to do the right thing – set up, clean it up, and get it reused. And we all know, I think, now as examples, of reclaimed property, recycled properties, on old industrial lands – shopping centers, basically high value, new uses, that have been more or less privately funded. And because of that private funding, this spotlight has not shown as clearly on how decisions are made at those sites than they are in a public process, like schools.

Also, frankly, shopping's fun but kids are very important. We can maybe take a pass on how shoppers are protected or not. No one's going to take a pass on whether kids are safe. We all want to know the real story with a real answer, and we're going to shine a spotlight on that until it actually is clear so this is a terrific debate that you have.

Unfortunately, I, in a private-firm context, represent a number of nonprofit and for-profit developers and public agencies in extremely complicated new projects, like landfills to parks, refineries at schools and homes, old oil fields to homes. We've done these. We've done it outside the spotlight.

I've started donating time to the California Center for Land Recycling, one of several environmental groups I do pro bono work for, and I started looking at grant applications from schools, broken schools, public schools, cities, redevelopment agencies, nonprofit housing developers, looking for $25,000 or $50,000 to figure out whether they can do a roundtable ?? project. And you know the kind of problems they were looking at? Underground tanks, little things that we don't even think about when we're actually doing

landfills to parks and refineries to homes. It's almost like the Internet debate. There's a group that's plugged in that knows how the process works and then there's everybody else. And having been on both sides of the Internet debate and just taking my computer back to Circuit City when I didn't understand it, I can feel the part of the community debate that says: I don't get this because none of this process is transparent to me. I don't get it.

What I have to say is that California's economy has been robust enough that we have not had to confront the _____ in the sunshine until now. If this debate doesn't come out the right way, all this voluntary cleanup, all these voluntary programs to do land recycling, are going to come to a shattering close. Right now, the hotbed of this debate, is schools in Los Angeles.

I just wanted to put a couple of facts on the table. The how-clean-is-clean debate has been resolved as good as the science lets us resolve it. In promulgated soil cleanup standards, which is mostly what we're talking about for schools, in 27 states, this is one of three volumes that compiles the state cleanup standards that have been adopted. Every time we get close to this issue in California, we run into the religious war between the polluters on the one side and the environmental advocates on the other and we take paths. We can't take _____.

It's not like the science behind what levels of lead are safe for kids; it isn't there. It is there. We know what it is, or at least we know what the science tells us what it is in a way that we can put that information in a nonpartisan way in front of the community and let them make a decision about what to do with that information. Do you want more stringent? Fine. You want less stringent? There's ways to do that. What do you mean there's less, you can get to a less stringent cleanup? What am I talking about?

The science tells us you have to get to 400-parts-per-million-soil-and-cleanup standard, then how can you possibly in a school get to anything less than that?

Well, you can get to less than that if you think about the way land is configured and used. A residential cleanup standard, which is that 400 number that I'm using for soil, assume that little kids hang out on the property for 30 years eating dirt and eating food that's grown on the property. In school sites, not all dirt is exposed to kids. In fact, the dirt that's exposed to kids is the landscaping area and the field, turf.

Did you know that even though in Region 9, here in EPA, our residential soil and cleanup number for lead is 400, but you can go to Home Depot right now and buy stuff called potting soil that has lead numbers of 840. And so you can go buy at Home Depot potting soil for turf that's two times the residential cleanup standard that we would otherwise have to clean up a school in Los Angeles too, if you wanted to hit residential numbers.

Why am I mentioning this? Standard setting, the standards themselves, are kind of a morass. You've got to shed some light on it. The California Center for Land Recycling has been working with Senator Escutia and others on trying to figure out a better way to shed some light on the cleanup standard setting process. We think it's time for a science review panel to convene, mush through all these numbers that have emerged through the regulatory process in a way that frankly hasn't sunshined and start building some community trust.

That's only a useful debate that you have if you can get to something that means less than pristine at the end. Otherwise, if it's pristine at the end, take out the dump trucks and start finding communities outside of the LA Basin that will accept tons and tons and tons of dirty dirt. Otherwise, what we're really into is finally a debate on really how clean is clean, an incredible process. We're getting there and we'd like to do that.

SENATOR ALARCON: Thank you very much for your testimony. You framed the issue, I think, very well. That is the heart of the reason for this hearing. And may I ask just one question.

Has there been any comparative analysis of the 27 states?

MS. HERNANDEZ: Believe it or not, Senator, I had to compile, in my law firm, and I'm not sure where the feedback's coming from. But I will now make sure that's happened, as another of our pro bono commitments. We are going to sort through this and at least on some indicator chemicals like lead, do a comparative analysis of the different state standards.

SENATOR ALARCON: One of the things that I would like to do is ask the Senate Office of Research to conduct a comparative analysis of the standards that you mentioned that the 27 states have and just provide information for the purpose of this debate.

Thank you very much.

SENATOR SOLIS: The only comment I would add to that is that we all know that California's standards, in many instances, are much higher than other states. So that analysis will have to take that into account as well, I believe.

SENATOR ALARCON: We don't have it.

MS. HERNANDEZ: Senator, I think that I'll make an unfortunate visual reference. Just as we, San Francisco, sort of consider ourselves inherently superior to people from Los Angeles...

SENATOR SOLIS: Are you sure you wanted to say that (laughter) to the two Members from Los Angeles?

MS. HERNANDEZ: That's exactly right and that's my point, is we walk around, I think, as Californians thinking that we have –

SENATOR SOLIS: The best?

MS. HERNANDEZ: -- the best.

SENATOR SOLIS: We think we have the best.

MS. HERNANDEZ: And we do, we think that. And in fact, the standard-setting process, composed frankly by EPA, which has been an advocate for brownfield cleanup and the restoration of communities throughout the country and which has led a lot of the science efforts, we don't have in this arena of cleanup standards a lot of the best. Quite the contrary; we are with our peers in other areas and with other communities. They're trying to do right by our kids because there's a zero-sum gain. It's not like the dirt's going to go away. You can move it someplace else if you don't like it where it is and take it into another community and bury it and burn it. But the standard-setting process in other states is not less protected than California's standard setting.

SENATOR ALARCON: In any case, we would ask that these be compared to any standards that California might have that are either consistent or inconsistent with generally what's going on out there.

Thank you very much for you presentation.

Tom Soto, LAUSD Environmental Safety Team.

MR. TOM SOTO: Thank you, Senators, for allowing me to speak this morning.

Again, my name is Tom Soto and I'm with the Environmental School Safety Team for LAUSD, and I'd like to direct my comments more to the core of brownfield issues. And as much as I would enjoy this discussion on standards, which I think are going to be a very key item of discussion over the course of the next probably two sessions, we will begin to approach that fairly quickly with respect to any of the legislative items that I believe we're going to seek and use hopefully as remedies for some of the issues that we're involved with, with respect to siting and cleanup costs associated with new schools.

With respect to the brownfield issue in California and LA Unified School District in particular, I don't want to state that it's something that the

school district in my opinion has necessarily ignored. But I also have to be honest that they haven't necessarily engaged as aggressively as they probably should. And using brownfields as an item to help to generate additional funding sources and remedies for some of the site selection processes, deciding overall where the number of schools that theoretically needs to be built over the course of the next ten years, which is anywhere from 100 to 200, depending on the types of plans that you examined. But there's no question that in the _____ urban landscape that we all are familiar with called LAUSD, there's going to be very, very little commercial real estate that we'd be able to _____ for schools overall. And the most easily identifiable option that the school board contends with, other than that is the neighborhoods in condemnation which is not as palatable as some other options.

I think that there's an enormous opportunity here for not only the school district but many of the agencies and individuals in the activist community to begin to address how school districts look at brownfields. I think that brownfields in particular is the long-end result of and one of the first of hopefully many things to come from the environmental justice movement. And I think one of the things that the school districts should begin to look at, for example, in cooperation with other organizations, is what type of environmental justice policy can be developed that will help to ensure the type of threshold that collectively we can all agree on in terms of standards, is adopted and used as a primary function to determine where we place schools. We've been able to establish, for example, between the school district and DTSC, a very effective, collaborative relationship in identifying sites and identifying the types of remedial investigation that would be necessary for those particular sites. Each site might be different. Each type of investigation will be different. But within that context, we've had a great deal of success.

For example, by using the voluntary cleanup agreement approach, and in LAUSD cases, we have at least three VCAs that have been very effective to how to determine the suitability of a site and whether we might want to move forward or not. We had one on South Gate, for example, and that was very useful in helping to establish that relationship and the perimeters of what our goals were and how we were going to study that site in the context of long-term impacts and exposure. I think, that having a _____ policy on environmental justice will help to move the issue of brownfields forward.

I think that we also need to have an inner agency approach to the development of brownfield's funding process.

Senator Alarcon, you were very successful, for example, while at the air district as a board member in developing the Clean Air Fund that was a proposal of about $10 million at which the White House, and because of your leadership and the district's energy, that went to about a $200 million proposal to include ozone and greenhouse gases, as well as diesel, and it eventually was budgeted at about $50 million. We need the same type of leadership at the federal level in creating partnerships that will help to identify funding sources at the federal level, bring them down to the local and regional level that we could then administer through the determination of priorities of sites, working in cooperation with Cal-EPA and those agencies that are seeking those funds.

In addition, we can also look at this and say it all goes back to money, it all goes back to funding. One of the issues that Mr. Zian brought up earlier was the vicious cycle that involves chicken and eggs, and that is, how do we get this site funded if we can't get that site properly assessed architecturally and then through the PEA format and know that we're still in line for funds? And that's ultimately a long-end dilemma that we need to resolve and _____ not only going to be exclusive to LAUSD. And we need to understand that as we engage in this, we cannot allow the conflict that will

emerge or the perceived conflicts that emerge between rural needs and urban needs and how do we split that pie. There needs to be more creative means of finding and identifying funding sources.

Mr. Alarcon, you mentioned earlier about litigation. If we can have, for example, some language or some allowances for the agencies, the regulatory agencies, to pursue potentially responsible parties more aggressively and involve them in litigation; or perhaps in the environmental community, for example, we're very used to using settlements and the fees generated from settlements to go to specific environmental organizations for monitoring and checks. But there's a number of issues that you can move forward with respect to funding and proposals. But clearly, I think the single largest thing that needs to happen is a collective understanding that brownfields in urban areas is not only a benefit economically and environmentally to existing and impacted areas, but it's basically a vital need and that we need to address it in the form of identifying funding, how we're going to clean up fees and who's going to be responsible for that cost, and then to what extent possible can we use that property for and determine, along with the discussion on standards, how we might apply that.

SENATOR ALARCON: Mr. Soto, I appreciate again framing the question. Clearly, one of the goals we would seek is to find more funding for cleanup. But I want to go back to some of the comments made by Mr. Panos and get some things clarified.

Is this working? Okay. Can you hear me in the very back? Okay. Thank you.

He described some 150 studies that are going on as we speak. Why do we need and how many of those will ultimately end up being a school?

MR. SOTO: I think the percentages would be difficult to give because there's not necessarily a structure in place, an understanding of how many of those _____.

SENATOR ALARCON: Mr. Soto, I want to be very clear where I'm going. I'm tired of the LAUSD spending money on studies and not producing schools. They have 150 schools. My guess is they will generate maybe ten out of those 150. That's a miserable track record and it's millions of dollars that will be wasted. He described almost $25 million in studies that are being conducted right now, 150 schools, and they're not going to generate. With the $25 million, you can build a school.

MR. SOTO: I'm not here to defend that policy. I apologize _____ because I agree with you.

SENATOR ALARCON: But my point is, the success rate has to be considered here. The school district is making our task of getting funding for cleanup ultimately more difficult by not having success in their evaluation and not selecting sites that ultimately will produce schools because they don't evaluate, not just the environmental situation but the political situation. What's the community want? And you know, and the second question I wanted to ask is: Does the district have a process in place to work with the communities on site selection that is consistent at all of those schools?

MR. SOTO: On the first point, with respect to the number of schools or the number of projects, the way that I believe that we get to that point is through the type of collaborative process that we've instituted eight months ago with the Safety Team's initiative between us and the DTSC and the Air District and so forth.

On the second item, with respect to the site selections in community outreach, to my knowledge, I don't believe that there's an instituted program that is being used. However, and I think that Paul could probably speak better to this effect, there has been a couple of models and case studies that have been used in particular areas to attempt to identify the best means of communicating to the impacted area more effectively.

SENATOR ALARCON: Tom, we need a policy of the district.

MR. SOTO: I want a policy...

SENATOR ALARCON: And you need a procedure that is implemented. It is not being. What you said is diametrically opposed to what Mr. Panos said and that's exactly the kind of testimony that gets LAUSD in trouble. When they say one thing and then somebody else comes along and says another, and the truth, having finally been observed, is different than what was presented by the management official who's in charge of providing the truth; that the cameraman had a truth button on. I couldn't think of a better thing. But that's a challenge because clearly we need more resources for cleaning up sites. There's no dispute there. Everybody's in full consensus on that. But if we keep lying to the public and if we keep spending dollars with no product at the end of it, it's like pay us now or pay us later. This is like pay us now, don't pay us later and don't get anything for what you paid us for now. We can't do that any more because the federal government, the state government, and even regional areas are not going to participate in that kind of funding any more.

South Gate, South Gate, I believe, is going to be a bigger debacle than Belmont because of $25 million. And so I'm concerned about the vast number of studies that are being conducted by LAUSD without providing a product. I'm very concerned about that. We've got to be more successful with our targeting of schools, and I believe the key is working with the community and they haven't done it.

The policy, even the draft policy, as you mentioned, the district developed a draft policy, largely with Mr. Soto's help. I've seen it; I've presented it; I argued that they should implement it, and it ain't perfect but it's good. It starts with asking a community to find its own sites for schools and goes all the way through the process of opening the doors. It's a very thorough document and I applaud you for that, but they never implemented it and this was eight months ago. In other words, they know how to do it;

they just don't do it. In the process, during the same time period, they have used alternative methods that have produced no schools and have wasted time and money because they thought they could circumvent the community and get a school approved. I mean, we can name them, some of the ones that are featured in the news – May Company, you know, Panorama City, they lost that one. You know, so we've got to be more accurate. The truth is absolutely essential in this process if we're going to be able to persuade legislators to give more money.

Thank you very much for your participation. You have, I think, one of the greatest challenges in the region with regard to building schools and I applaud you for hanging in there.

With that, Connie Rice from English, Munger and Rice.

MS. CONNIE RICE: Good morning, Senator Alarcon and Senator Solis, and Senator Escutia. Thank you, all three Senators.

This is a critical hearing and I want to thank you for bringing it and it comes not a nanosecond too soon.

My name is Connie Rice. And in my previous life with Robert Garcia, I was a Co-Director, along with _____, of the NAACP in Los Angeles, when I saw that this issue was coming up, joining New Schools Better Neighborhoods, because the community absolutely must be an integral part of identifying where the schools have to go and how those schools operate.

As one of the lawyers who sued MTA prior to _____ dysfunctional set of bureaucracy _____; however, I'm sad to see that I found a new threshold.

Senator Alarcon, I'm afraid that...

SENATOR ALARCON: There he goes.

MS. RICE: _____ audio/visual equipment. (Laughter)

SENATOR ALARCON: In the Environmental Impact Study _____.

MS. RICE: I think that there's several things that can come out of this hearing that are very important. None of your questions, I'm afraid, is going to get answered. When you asked for a threshold of standards, hopefully toxic standards were based on developing systems that children have as opposed to mice, monkeys, or adults. I'm not sure that you're going to get that, but you've got several of the players in this room and several bureaucracies in this room. You'll probably get done what we couldn't do alone and then force folks to get into a room and knock heads and come up with some standards. I don't know if I could ever understand all this, but this doesn't look like a clear set of parameters and we need help in figuring out for its children, very young children, not adults, what is a safe framework. That's a process that can be ordered.

I think you could, on several things, Senator Alarcon, they cost a bit. We've got a tiny portion of what the costs are. If you're looking at a $30-$40 billion issue for the State of California and this Prop. 1A passed with $9 billion ??, that means we've gotten some other big bonds that come out of this. You don't want to endanger that by incompetently whittling away this money. But it's a much bigger, so this is a much longer term convincing the public of what the real scope of the problem is and that is an education process that I think this community neighbor process can help do.

But with the money that we have now, there are several issues. I just want to touch on the community engagement process. David Beckman and Paul Hernandez are here from the New Schools Better Neighborhoods. That's one community engaged in a process that's been privately funded and so forth, trying to get the community, notice that these schools are being selected, trying to get the community organized.

There is no infrastructure in Los Angeles, other than the police block clubs. I mean LAPD is about the only grassroots infrastructure that really is citywide, I'm afraid to say. But we don't have our neighborhood council set

up. We don't even organize _____ started. So the communities need resources so that people who can call the meetings, explain the stuff to folks, do the inter-racial mediation, because I've been at Karen Bass's ?? meetings on Saturday and you've got to have referees at those meetings – Latinos, African Americans, whites. You know, we've got racial issues; you've got class issues; you've got homeowners versus parents. You have to have highly skilled grassroots leaders helping to run those meetings and there's no, there are no resources for that. This isn't just show up on Saturday and everybody decides where the schools are. It's tough grassroots organizing and there are not resources for it, and New Schools Better Neighborhoods and other initiatives like that have got to be helped.

The school, LA Unified gets it intellectually but it's nowhere in their plans. If you look at the Army Corps of Engineers, you won't see community engagement. If you look at LAUSD, and Howard's a friend of mine, and the community is not there because they're afraid that it will slow up the timelines and the timelines are real.

I'm going to spend the rest of my time, because I'm very concerned about the State Allocation Board process. You've got Prop 1A. That is the only one that's really on the table here. We've got BB (Proposition BB) here in LA, but you've got Prop. 1A that's about the only significant chunk of change to build these new schools. So voters are right. The bond language said pass this money out on the basis of need. In my opinion, the State Allocation Board is instituting a process of handing out this money. There are official deadlines that do not acknowledge what urban poor districts face, and it is not going to be a system that is based on need or pro rata per-pupil allocation as required by the proposition. As far as I'm concerned, in my opinion, this artificial deadline of July or June or whatever it is – well, we know LA Unified might have seven applications ready, if any. That deadline is going to end up having a lot of significant part of that money handed out to

districts but not based on need. And as far as I'm concerned, that's unconstitutional.

SENATOR SOLIS: It's whoever's ready and has the know-how, the potential, and the staff ready to go with an application.

MS. RICE: Speed over need.

SENATOR SOLIS: Right.

MS. RICE: Now there is a prioritization process, from what I understand. I don't want to be on this Oklahoma Gold Rush process. _____. That's going to end up meaning that a lot of the money will be gone by the time larger urban districts – now this is what I would suggest. If it doesn't happen, there's going to be a lawsuit.

SENATOR ALARCON: Can I interrupt? I believe that the kinds of dilemmas that you described are written into the enacting legislation.

Are you aware of that or is that your impression?

MS. RICE: Senator, my impression, _____, is that there is a prioritization. There's a point system that accounts for...

SENATOR ALARCON: I guess what I'm getting to is whether it's an administration decision of the State Allocation Board or whether it's an interpretation therefore or whether it's required by the enacting legislation.

MS. RICE: There are some minor problems with enacting legislation but it's mainly, as far as the NAACP ??, the State Allocation Board process...

SENATOR ALARCON: Okay. I would be very interested in hearing about the difference between the two from your perspective.

MS. RICE: I'll give you our memo –

SENATOR ALARCON: Thank you.

MS. RICE: -- to cut this short because we've got several other people in line and you want to hear more about the toxics. But I believe that there needs to be some pressure put on to think about how this money is being

handed out. It doesn't matter whether the district is dysfunctional or not. It is the state's responsibility. You cannot make the children suffer.

In Los Angeles, you have children who stay in the backs of classrooms because it's not enforced. That's unacceptable. The money cannot go to a school that doesn't have that problem before it goes to schools that are in LAUSD. LAUSD has 17 of the 18 high schools that are on year-round, multi-track concept level. It comes at six levels of overcrowding. There are such levels of overcrowding that the kids would routinely miss three weeks of an eight-week course because they can't find a place to hold a class. That's what we're putting our children through, mainly poor, urban, poor children, mostly Latino, poor white, poor black, and poor Asians. And we've accepted those conditions for these children. It doesn't matter whether LA Unified is dysfunctional. It is the responsibility of the state to make sure that this money is handed out according to the way the voters said, which is by need. And the problem is too much of the money will go out the door with the Gold Rush standard, speed over need; and then when they finally apply for prioritization, too much of the money will be gone. That's unacceptable and I think it's also unconstitutional. I'm not a toxics expert. I do think that there has to be a process of getting everybody in the room and there is going to have to be the extra cleanup money.

SENATOR ALARCON: Thank you very much. That does add a dimension to this. Quite frankly, politically, we do have – one of the reasons I want to focus on the legislation, is that we do have to go back and try to do some cleanup legislation.

We're going to have the challenge of the _____ level that has been created by the South Gate _____ and a slew of others that have been clearly exposed by the press and so it's – I don't want to say that we can simply do a piece of legislation and get it passed. The others, you won't get it. They'll say, well, we have an advantage here. We can get schools for our

areas so they get it, so we're challenged. But I do appreciate you framing it that way.

SENATOR SOLIS: Mr. Chairperson, just to make a comment, I think a lot of what Connie Rice has said is very accurate and something that we've, as a Member of the Legislature for seven years, have heard repeatedly calls and outcry from the different schools that I represent as well. And there is an unfairness that does occur. And there is this overcrowding situation that is occurring also out in the Inland Empire – San Bernardino County and Riverside, San Bernardino more pointedly because there are also areas there that are very toxic that could probably be eligible as brownfields as well. But the need, I think the need, the need basis, is always something that is overlooked when we look at allocating dollars in terms of facilities and what have you. So that is something that I would be very interested in helping to support because I see the urgency of it.

I realize that we're in a political dilemma here, but the politics also require us to do something immediately for these children, for their families, for the fact that they're entrusting us as their elected officials, as well as the school board members, to do something immediately. And while they're re-organizing their structure, that's fine and dandy. But the immediate, the immediate pressure is to try to come up with a plan that will hopefully provide the kind of leadership that will allow our students to get into school, do what they need to do, and have an environment that's going to be somewhat safeguarded and ready to go.

MS. RICE: Senator, one thing. I just want to finish one thing. LA Unified did get all of its eligibility analysis in, is my understanding, so the State Allocation Board has the ability to assess need. If you base your allocation in reserve money and if you are afraid that LA Unified can't handle it, then set up an infrastructure that can handle it. But you can't – my point is we know where the need is and the State Allocation Board – LA Unified is

not going to get its applications in on time but it did get its eligibility assessments on time. They know how many unhoused kids they have. So that's what it ought to be based on. You don't need to wait for the plans and get the toxics done yet. We've got a couple of years to get that done.

SENATOR ALARCON: Okay. Thank you very much.

Can I just ask anybody who's near a mike, I've noticed, that if you're not speaking and your mike is off, the other mike works better.

David Beckman from National Resources Defense Council.

MR. DAVID BECKMAN: Good morning. Can you hear me?

David Beckman from NRDC. We're a national environmental organization.

You've asked us to get to the point, so I'm going to trim some of the comments I was going to make and just focus on three things that I think can be done now and can address the issue of building schools on brownfields now, in the immediate presence.

I think the first thing to recognize is I agree, to some extent, with Jennifer Hernandez, in terms of the fact that the existing system of protocols isn't perfect. But I think that it's been well thought out and it's been in place for a long time and you need to not just criticize that system but look closely enough to figure out what really is wrong. And I think one of the things that is undeniably wrong in California is that the system, the implementation of the system, has been decimated by a decade or more of budget cuts, and in particular, DTSC _____ how many schools he has to oversee.

So my first point is that I think that the flaws in the system are distorted, the real flaws, are distorted by the imploded infrastructure of DTSC. And I think, if the Senate and the Governor and the Assembly were to add 100 people to the staff to work on these issues, which should be doable in this economy – it's not that much money to hire them – you would find that this whole process would move a lot more smoothly, but it's not to say

that it's perfect or that it doesn't deserve some real analysis but it is a more immediate way to move things along.

I think secondly, if the school district is looking at brownfields and if the state wants to try to direct school districts, I think that one focus should be on categorizing brownfields and recognizing that they are not all created equal. So if your desire is to build a school quickly, it makes much more sense to look at former dry goods warehouses and other kinds of commercial entities and not as LAUSD has done, the chrome-plating plants that leave some of the most carcinogenic substances known to science _____. Those are apples-and-oranges-types of situations. And no matter what standard applies to the cleanup, it's going to be a lot more straightforward to deal with an old warehouse, all things being equal, than it is of chrome plating.

SENATOR ALARCON: But in all fairness, we have to recognize that generations of businesses that have located at these sites, your dry goods plant might have been an oil well –

MR. BECKMAN: That's true.

SENATOR ALARCON: -- 50 years ago.

MR. BECKMAN: That's true. And I don't mean to suggest that you might find land-use histories where you've had simply one land use because you're right, Senator. But I do think, that if you did take a look at it, put some money into categorizing brownfields, you would be able to skim some off the top that would say that everyone would agree, hey, that's a place we should look at and there'd be some that you would say those are complicated problems and maybe those should not be where we invest our money in the near term. And that's the only point _____.

Then I think a little bit more long term, that is to say, it's not going to be done in months. But I think that Senator Hayden's bill that was vetoed by the Governor really deserves re-examination because it marries in one bill a

lot of the concepts which you're hearing. Jennifer's idea about look-up standards, she wants standards that you can basically find and then that's your approach. The Hayden bill, I think, was leaning in that direction, vis-à-vis schools. The other thing that it offered for all of us, and I think environmental and environmental safety advocates are particularly sensitive to this, is it mandated that we look at standards as they affect developing children. And we find out more and more – I mean, that's a critical issue and that, you know, toxicity experts find out more and more that the toxin is not often the dose. It's the timing of the dose. That has to be recognized. But if we can build that recognition into a bill which leads and has as its end result some of the more, you know, discreet standards that many advocates here today like to see, it seems like that offers, you know, the broader spectrum of stakeholders something. You know, it's too bad that that bill was vetoed. So perhaps you can look at those kind of concepts.

SENATOR ALARCON: In regard to that final point, where is the science _____? I mean all the testing mechanisms, all the scientific research, is based on adult white males, 38-years-old or something. But just about all of them, eight more or at least slight, _____.

MR. BECKMAN: That's absolutely true. But I think that part of the work that NRDC is doing, not me, but we have actually now doctors on staff in our San Francisco office. And the reality is that the state needs to take leadership in pushing that. It costs money to take those studies and to broaden them out that that has to be done. And I think frankly that the state is in a much better position than any public interest organization to do that kind of research.

SENATOR SOLIS: And the federal government.

MR. BECKMAN: Of course, and the federal government.

SENATOR ALARCON: I guess my only fear there is that we act too soon without sufficient, scientific data and we think we're doing the right

thing, we're motivated for the right cause. But in the long-run, we do more damage than good so that's the danger there. So I appreciate the assistance from those doctors from San Francisco as opposed to doctors from LA. (Laughter)

MR. BECKMAN: I used to work at a firm in San Francisco. I moved down here five years ago, so I'm a recovering San Francisco resident.

SENATOR ALARCON: Thank you very much.

John Gamboa from Greenlining Coalition.

MR. JOHN GAMBOA: Thank you, Senators.

It's flattering to believe that you think that we may have some valuable input to this important meeting.

SENATOR ALARCON: We can't hear you. Is that mike working?

MR. GAMBOA: Last night I was talking to my baby daughter who was angry every time that I'm not at home at night. And she asked me what was I going to be doing. And I told her I was given five minutes to tell this distinguished hearing all I know about brownfields. She sighed for a few seconds and then she said, "What are you going to do with the extra four minutes?"

That lays the foundation because I'm not an expert in the area of brownfields. The Greenlining Institute has been working in economic development for several years. We have created $350 billion of CRA commitments from financial institutions, for investment, and low-income communities for the next ten years. A large portion of that was to be focused on brownfield development.

We do assessments every year. In fact, you might have seen today's *Los Angeles Times* article, a study on home lending financial institutions in particular. So we do assessments every year on what progress has been made on the commitment. Part of the assessment we did on brownfields, we found, that after several years, zero dollars were brought into the investment

for brownfields development. What's happening here, what's inhibiting the investment in brownfields, and the element that came up, came up over and over again, is the lack of confidence by lenders.

Given this fear of being sued for things they did not do, things _____ or for changes in regulations _____. So as we got involved in this issue, we found that the issues around brownfield development or economic development were not dissimilar to the issues of brownfield development sites. What we found was, it was total debate, as Jennifer said, between polluters, environmentalists, government agencies. There was a missing element _____. The missing element were the stakeholders. Those people, those residents and those parents are most affected by the decisions about brownfields. Because of this, we have organized the Brownfields Coalition. We probably have close to 200 community organizations – all have been educated on the issues – to provide advocacy. Also, these are in the Los Angeles area.

And I raise that because, as we did this coalition bill, we wanted to find out, we wanted to educate these community leaders and organizations on brownfields and we got an education. Well, we found out _____. What they knew was what the problems were or the major problems for them in this whole equation was that it was twofold. One, the lack of confidence, the lack of confidence that the parents who send their children to that school _____ lack of confidence by neighbors _____, lack of confidence for investors. Are they going to be sued later because government changes its mind and the regulations have changed?

There was another problem. The problem was in the decision-making process. Decision making all around brownfield development was being made by government agencies, by environmentalists, and by developers. There was no process being made for input by the stakeholders in the community. The stakeholders are the most at peril. So the general

consensus from all of the community leaders _____ solution is not complicated for a community organization. What we need is access to good information to rely upon, good, minimal stringent cleanup standards that are unbiased that community leaders can look to, that parents can look to, so they're not as subject to the biased information by environmental purists who would rather have pure land than any redevelopment or by developers who are only interested in the bottom line of what they can develop. Those issues are critically important.

The community also needs a scientific advisory panel, a panel of experts they can turn to for questions and advice _____. Those, I think, are the two greatest missing elements that we heard. I haven't heard anybody raise those issues.

Thank you.

SENATOR ALARCON: Thank you. I think you touched on some points. And when Ms. Hernandez was talking about the polluters versus environmentalists, it's shocking to hear so many other -- you call them "stakeholders" -- there's so many other stakeholders that weigh into this process so thank you for bringing that out.

Our next speaker is Greg Trimarche from the State Bar Environmental Law Executive Committee.

MR. GREG TRIMARCHE: Thank you, Senators. I actually prepared remarks that I put back into my briefcase. (Laughter)

SENATOR ALARCON: I hate when that happens.

MR. TRIMARCHE: I have spent the last two-and-a-half hours listening very closely to what everyone has been saying. And rather than bother with my prepared remarks, I would rather comment directly and specifically on some of the issues that I would raise today and maybe even try to propose some answers to some of those questions and possibly even some solutions to some of the very difficult problems that we've heard about today.

As you mentioned just a moment ago, Senator, I am with the State Bar Environmental Law Executive Committee. On that body, I am responsible for planning educational programs on brownfields for the State Bar, which means I'm to some extent responsible for educating the lawyers in this state about brownfields.

In terms of my day-to-day job, I, like Jennifer, am an environmental lawyer and I represent cities and I represent private developers who are trying to clean up contaminated properties and redevelop them and put them back into productive use.

The other thing I do is that I am a co-owner of a private company that essentially buys contaminated properties and cleans them up and redevelops them, and I've been running that company now for a few years, and I've worked very, very closely with Barbara Coler at DTSC _____. And I think that that gives me a slightly different perspective on some of the problems that we're dealing with here because frankly I invest in spending my own money in trying to solve the problems we're talking about here today. Now I think I've heard three different big problems that we have to solve.

Problem number one is the problem that Connie Rice spoke about which is proper allocation of funds to the most needy schools. And frankly, that's a very different problem from the other two that I mentioned.

The second one is the one that I think we initially focused on when we talked about planning this hearing, that is, setting appropriate cleanup standards for individual contaminated sites. Now while the systems that exist for dealing with those problems may be imperfect, they do exist. People like Connie, people like the State Allocation Board, people like the State Senate, the State Assembly, are well-qualified to at least try to come up with solutions as to how to allocate funds to the most needy schools. Similarly, people like Barbara Coler and Deborah Oudiz, I mean, say, for people like

Jennifer Hernandez, frankly, are very well qualified to work on solving the problem of how we set cleanup standards for individual sites.

The third problem is the one that I think frankly is the most pressing right now and the one that we are the least capable of solving right now with the existing infrastructure and systems, and that is, screening brownfield sites for potential use as schools. If the ultimate goal here is to build new schools as soon as possible on safe sites -- and frankly, it sounds to me like we need to focus some attention on how to better evaluate the five potential sites and do an initial screening process of those sites to determine which of those sites we should be spending our money on.

When I first got involved in the brownfields business a few years ago, I wrote a couple of articles and eventually that article became a book on brownfields, and I think perhaps the overriding thesis of the book in those articles was, that if we are going to attack this brownfield problem, the first and potentially most important thing that we need to do is we need to have a system, we need to have a process, for quickly screening and evaluating brownfield sites for potential redevelopment, for potential cleanup and redevelopment. And that is frankly what I have spent the last five or so years of my life by doing, is figuring out how to quickly, cost-effectively, and accurately look at a large number of contaminated properties and figure out which of those warrant attention and which of those don't. Which of them are appropriate or trying to redevelop and reuse?

Now I'm not the only one in this business. Jennifer is one and there are others out there. And what struck me today listening to all of this discussion is that we have this huge body of knowledge and expertise out there in the private marketplace that is capable and qualified of doing the very thing that we mostly need to do right now, which is find the contaminated sites, evaluate them, and find cost-effective, quick solutions so that we can eliminate or mitigate the environmental risks and those schools

on these sites. And what we need to do frankly is we need to find a way to tap into that existing body of knowledge and skill and expertise in a way that just isn't being done right now. And I do not mean to criticize the LAUSD or the State Allocation Board or any other school district or any individual for not doing a good job here. The fact of the matter is, it just may be that school boards, State Allocation Boards, school districts, might just not be the right organizations to charge with such a daunting task.

I mean I think it's a very fair question to ask: Is the LAUSD properly charged with the task of performing this screening function?

Now I believe that is the question that we really need to answer. And the bottom line is that there is a way of solving the problem. There is a body of knowledge and expertise and skill out there that is available. And frankly, if you wanted to say, Trimarche, if you were God, what is the first step you would take to solve this problem today, I think it would be to try to form some sort of panel or a committee or whatever you want to call it, that taps into this existing body of knowledge and expertise that would be willing or capable of helping the state, the school districts, whoever it is out there, of solving that problem, because it can be done. And the fact of the matter is, it's not efficient to spend $100,000 or $200,000 doing a PEA on a 150 different sites to come up with ten sites, as you, yourself, pointed out, Senator.

There's a better way to do this. And the fact of the matter is, that for many of the these sites that are out there, there is a big, there is a body of environmental information about those sites already. And what we need to do is evaluate the existing information on those sites and make an initial determination as to whether those sites are essentially worth spending the next round of money on. And frankly, this can be done and it can be done in a cost-effective and efficient way if we just come up with a body, a committee, or whatever you want to call it, that is basically designed to perform that

function rather than trying to foist that very, very difficult task on organizations that are frankly charged with different functions.

SENATOR ALARCON: Your final point, I think, is that certainly there is a debate about whether or not the school district is in a position to build new school facilities or whether we should go outside. When I heard about the Army Corps of Engineers being engaged in this process, my first comment was, well, there's another fast-moving bureaucracy. (Laughter) And so I don't know whether we have an existing mechanism out there, and I would rather engage in discussion about creating a new entity that could expedite the building of facilities in a way that makes sense.

But I think that exceeds the bounds of this – I think it's important for us to mention it to this particular committee, but there are other mechanisms. Scott Wildman who had hoped to be here, certainly, as Chair of the Joint Legislative Audit Committee and he is Vice-Chair, are looking at that issue through the audit vehicle and some others are having a discussion as well, but I think that it is an important point. And hopefully, you'll be involved in that discussion as well and we would like to work with you to have that discussion.

So thank you very much for your participation.

Barbara Coler, now you've already spoken.

MS. BARBARA COLER: I've already testified. I know we're running short on time and I think we should just move on.

SENATOR ALARCON: Works for me. (Laughter)

Paul Hernandez from New Schools Better Neighborhoods.

MR. PAUL HERNANDEZ: Thank you, Senator.

New Schools Better Neighborhoods is _____. We're a nonprofit, civic organization that has been working for the last year to determine how do we build new schools in urban areas, new public schools in urban areas.

How do we supply a new vision that is going to better educate and better serve our neighborhoods? _____ new schools.

I have to tell you, that one of the conclusions that we've reached today is that we are on a crash course whereby parents in Los Angeles are going to be forced to send their kids to Oxnard because those are going to be the only places that there's going to be new schools and that needs to change. I think that very important points have been raised here about the challenges of building new schools. The Prop. 1A deadline obviously is of paramount concern to all of us. The environmental standards need to be defined whereby all of us can understand what they really mean. I think we've gone round and round. I think the conclusion is that we really don't know.

I think _____, but I want to go back to an issue you raised, Senator, about the community. And unfortunately, the community, in large part to date has been left out of the process, and it's ironic because some of the reasons the district is not involved in the community are in fact creating problems for the district. You hear about, well, if we start having meetings and talking to people, we're not going to be able to meet our deadline; we're not going to be able to do this or do that. But in retrospect, if you look at, for example, Belmont, May Company, South Gate ??, that is in fact the _____ process was delayed because the community wasn't consulted beforehand. And now the district is starting over trying to figure out, okay, now where are we going to site the school.

What our organization has been desperately advocating for, and in fact we take a model, our working model that we adopted in the middle of last year and said, we will provide a demonstration project of how to effectively involve the community because the bottom line here _____.

SENATOR ALARCON: If I can interrupt just for a second.

Have you read the draft, community site selection process? Have you read that process?

MR. HERNANDEZ: Yes.

SENATOR ALARCON: Can I get your comments on it?

MR. HERNANDEZ: Let me preface by saying that there is a plan that our district has put out. Have they implemented it? No, they've not implemented it. There have been demonstration models that are in place, but there isn't a widespread institutional policy that the district has adopted. Now as far as the plan goes, I think that there are certain aspects to the plan that you touched upon _____ try to dialogue about how it involves the community. I don't think it's complete. I also, there's a lot of confusion as far as how they will in fact implement the plan and how it will work, who will manage the community engagement model with the district, where will it be done. I mean it outlines kind of the broad strokes but no real detail. I mean that's one thing we've been doing. But the other thing is, we've actually implemented a model. We've done it in the Wilshire Boulevard area for the last six months. It hasn't been an easy process. You know, there's a lot of interest. But to a person, everyone who's been involved in that process have said we're thankful that there's a process where we can actually have input, where we can talk about where these schools should go in our neighborhood. And that's really the crux of it because, unless the community is consulted and involved and engaged in this process, we're not going to get anywhere. We're going to go around in circles, regardless of the deadlines and the funding and everything else.

SENATOR ALARCON: Did you receive a copy of the audit?

MR. HERNANDEZ: Yes.

SENATOR ALARCON: Thank you. Do you have any comments on that?

MR. HERNANDEZ: I agree very much with what the audit stated. I think that's what we've been – I mean, when we saw the audit – in fact, we've been talking about it to the school district for the last six months.

_____, and I was heartened by your comments from the onset of today's hearing that where's the community? You know, where do they fall into this?

We really need your help, Senator Alarcon and Senator Solis. We really need the state's help. There are 15,000 kids that are being bussed every day to different neighborhoods in LAUSD.

SENATOR ALARCON: And that's 15,000? I think it's more than that.

MR. HERNANDEZ: And it's growing. _____. And in the area we worked in, in one square-mile block area, 1,400 kids out of that one small pocket are being bussed out and that needs to change. We need to build these schools, we need to figure out how we're going to do it, and we really need your help.

SENATOR ALARCON: Yes. That reminds me of some of the interesting ramifications. When I was on the city council, I remember developers coming in and proposing a site for building 54 units of apartments in North Hills. And I said, well, you can't -- that's right by Langdon Elementary. Well, yeah. And I said, well, Langdon has 1,200 students within a four-block radius of the school and they're capped and they bussed their kids out. And he said, well, no. He says I'll check.

And he goes out and checks and he comes back and says, "No problem. You were wrong. Their school isn't Langdon Elementary. It's this other school over here. I forgot the name of it.

And I said, well, wait a minute. That school is like two miles away. This school is four blocks away. How can that be?

It turned out, that because the school was capped, they had moved the local school because there was no more room for those kids. So he wanted to put more kids in the neighborhood by creating 54 units of housing because the real, the school that should have been the local school, was Langdon Elementary. So by having these problems and not working with the

community, and bussing and all the other issues, we are not building schools where they should be and we're not addressing the problem where it is.

So thank you very much for your testimony. I predict ?? that we will continue to challenge the school district to engage in the community because I believe the community, that that participation is the solution. I believe they want the schools and I believe that they have the best ideas as to where to locate them.

MR. HERNANDEZ: Senator, I'd be happy at another time to share with you how NSBN is involving the community in our demonstration model...

SENATOR ALARCON: What school was it?

MR. HERNANDEZ: It was Cahuenga Elementary School. It's in the Wilshire area _____ 1,400-student school _____, so it goes to show you how crowded it is, but I'd be happy to do that.

SENATOR ALARCON: By the way, Mr. Panos, I think, needs to be educated. Maybe, Tom, you can send the message back that we are building on the schools right now. We're building in a way, we're building out of school. There's no capacity. We're pushing the cars, the teachers' cars, into the residential neighborhoods. So I appreciate it and I think there may be some opportunities there but it's not the be-all and end-all. We're already overcrowding our campuses with additional development that impacts the whole system.

Robert Garcia from the Environmental Defense Fund.

MR. ROBERT GARCIA: Thank you very much, Mr. Chairman.

I am the Director of the Los Angeles Project Office of Environmental Defense. The mission of our project is to serve and protect the environmental needs of the community with _____ Los Angeles. I also serve on the Proposition BB Oversight Committee which monitors the spending of some $2.4 billion to build 150 schools in Los Angeles.

Is this on?

SENATOR ALARCON: If you could speak up a little bit.

MR. GARCIA: I'd like to present closing remarks, the last set of remarks here today, by focusing on a situation that brings together the themes discussed here today, at the beginning of the process rather than at the end of the process at Belmont and South Gate. We are working on the Chinatown Cornfield site. The proposal right now by Union Pacific is to turn those 47 acres into warehouses and that was scheduled to close in escrow on December 31. We think that's a misuse of federal funds and other funds. We believe that the Chinatown Cornfield is a classic brownfield that can be converted into a mixed-use school and park site. I think, in addition to the shortage of schools that you have impressed here today, the reality is also that Los Angeles is short of parks. In the city council district where the Cornfield is located, for example, there are .3 acres of parks per thousand residents as compared to 1.7 acres of parks in relatively wealthy _____ parts of Los Angeles. We believe that the proposal by New Schools Better Neighborhood for the joint use of schools and parks is a very important proposal that will serve more needs of Los Angeles.

Mr. Chairman, you mentioned at the beginning that you endorse the new model of converting of building primary centers and converting elementary schools, middle schools, and high schools. We think the danger with that is that that is not a vision. That is a fallback plan. A better vision was presented as long ago as 1930 by the Olmstead Brothers in their study entitled "That's Enough ?? Parks, Playgrounds, and Beaches for Los Angeles".

SENATOR ALARCON: Just to be specific, I said endorsed the building of pre-K schools and that's as far as I went.

MR. GARCIA: Okay. I appreciate the clarification _____ school district and Howard Miller qualified that _____ ____.

To drive the point home, some of the points at issue here, in Chinatown, there are no middle schools or high schools. The children of Chinatown are bussed every day, 45 minutes each way, to other parts of Los Angeles. There are no parks in Chinatown. Adjoining the Cornfield site is the _____ Low Housing Income Projects. If the Cornfield project was made into warehouses, the people who need housing projects will be sandwiched between, on the one hand, the men's jail: and on the other hand, 42 acres of warehouses. We believe a mixed-use site there that includes the school and the park would far more benefit the communities, which are disproportionately Asian, disproportionately Hispanic. It would benefit all the people of Los Angeles.

The issues that we face there are similar; they're the same issues that are here today. The school districts would be interested in developing that into a school. But one of the issues is, is the site contaminated? If it is contaminated, how clean would it have to be? The standard of cleanliness also affects the price with how clean it is. It has to be made. It will affect the amount of money that has to be afforded in cleaning it up.

We discovered that federal brownfield cleanup dollars are being used by – to make the warehouse project profitable. We believe that federal brownfield cleanup dollars are another source, a potential source, of money to make brownfields into schools, in addition to the Prop. 1A fund that Connie Rice mentioned _____presents problems, that there are additional sources of funds that have not been explored, such as federal funds – parks, bonds, and the March 2000 ballot would be a potential source for the joint use of schools and parks. Right now, there is a danger that that bond will not pass because not enough resources are being put into advocating its passage and the turnout for the March 2000 election is expected to be low.

I think Ms. Hernandez focused earlier on the question of developers versus environmentalists, but I think the brownfield issue goes beyond...

SENATOR ALARCON: She said "polluters".

MR. GARCIA: Polluters, excuse me, polluters versus environmentalists. The brownfield issues go beyond that. We work at the intersection, Connie Rice and I, the Environmental Defense Fund, the Los Angeles office. We work at the intersection of civil rights and the environment. When you look at environmental issues and civil rights issues and their intersections, you see things that you don't see if you look at one alone or the other alone.

Implicit in the discussion here today has been the demographics of Los Angeles and the demographics of people who are being affected by brownfields. Let me be explicit. In the Cornfield situation, for example, Chinatown is 42 percent Asian, 17 percent African American, 30 percent Hispanic, and only 11 percent Anglo. In Central City, which also is near the Chinatown Cornfield site, there's 13 percent Asian, 23 percent African American, 42 percent Hispanics, and only 21 percent Anglo.

The Chinatown Cornfields Project would not be considered as a warehouse project if they were located in a disproportionately white parts of West Los Angeles. It is because the residents who surround the site are the forgotten, downtrodden people of color that this is a serious option at the present time.

And finally, in closing, _____ Tom Soto asked about an environmental justice framework that would be commonly applied and I think this framework entails the community participation you're talking about as well. I think under the federal environmental laws, under the environmental justice bill that Senator Solis sponsored and has now been signed into law as of January 1 of this year, I think the goals must be equitable and environmentally sound and economically vital to school sites. Second, information must be gathered, analyzed, and published on what the

pollution levels are, what the standards are to clean up those sites, where potential sites are.

One of the difficulties we have encountered is that we cannot get a list of sites, potential school sites. School board members have said they drive around in their cars looking for potential school sites. There must be a better way. There are developers, if you're looking for a house, you can find a neighborhood and then call a broker. If you find sites, I don't think it should be the case that school board members drive around in their cars looking for sites

Participation. Participation is very important, not only in terms of community outreach, as has been discussed here today, but also diversifying decision makers in the process. When I became a member of the BB Committee two months ago, another member, a new member from the American Lung Association and I, were the first people of color on the BB Committee. Of the 11 members, they were white men, all white men, monitoring the spending for a school board in which the children are 80 percent, people of color, and 70 percent Hispanic. Participation is essential at all levels of the decision-making process, including the community outreach process.

And finally, the fourth point of this framework, as you mentioned at the beginning, there is no intentional discrimination but more importantly, no aggravated _____ alternatives. There has been some talk today about the need for standards and defining standards. We believe the framework outlined here today is already not just your policy but it's the law. It's the law in the federal environmental, civil rights laws, it is the law under the bills, like Senator Solis's, that are now the law. We believe that these laws should be applied in the brownfields, the schools and parks context.

Thank you very much.

SENATOR ALARCON: Thank you. Thank you.

In way of bringing a close to this hearing, let me just say that this has been a very, very good experience for me. I personally want to thank all of the participants. Everybody has presented very concise and pertinent information to the debate. I intend to continue this discussion and have at least one more hearing, but at the same time we'll explore specific actions that we can take into the interim.

I do want to mention – by the way, Mr. Garcia, I just want to say that your initial comments about the Cornfields reminded me very much of the comments that were presented to me as a city councilmember with regard to what we needed to do with Belmont High School. They presented plans and it was beautiful. My, God, it looked like Disneyland. Have you driven by? I would recommend to everybody here, if you have a chance, to drive by Belmont High School, and then go over to the federal prison and tell me which one you would rather go to school in without knowing all the environmental stuff. It just is ugly; it is ugly. I don't know what happened, but it was not what was presented the first time they met with me. It's horrendous. It looks like a prison. It looks like an ugly prison, at that.

But there's been a lot of information that I think gives us opportunities for consensus. I think that there should consensus on the issue of engaging the community in the process. I don't hear anybody saying we shouldn't do that, but we do need to look at a number of other areas. For some if it, we need more information, or a lot of it. We just need the will, the political will, to get it done.

So let me just touch on a couple of points and I'm probably going to miss some but please feel free to continue the discussion with us directly. In particular, I want to point out Mark Stivers from our staff who works in my Sacramento office and you can stay in touch with him on these issues.

With regard to funds, there is a question about we need more resources to do the assessments. DTSC is probably understaffed to help in as much a

way as they could if they have additional staff, and so we do want to explore the feasibility of getting more funds for DTSC so that they can help conduct these studies and perhaps assume a greater responsibility and actually help _____. Perhaps this is the entity, the outside entity, that can do some of those initial surveys to determine whether a site is even the ballpark or not, or maybe there's some other entity that is either existing or should be created to do those initial studies.

I think we want to explore cleanup legislation with regard to Proposition 1A to see if we can provide additional flexibility to the Allocation Board; and having said that, to look at what the interpretations of the Allocation Board as to how they're implementing 1A to see it's consistent with the will of the voters and whether or not they are getting to the needy schools. And if not, what can we do to shore up Prop. 1A to ensure that the voters' desires are implemented. I think we all need to unify in our efforts to approach the federal government for assistance in brownfield cleanup work and perhaps seeking incentives and priorities for the brownfield cleanup where the potential school sites may be the goal. I know that part of the Empowerment Zone concept incorporated the cleaning up and reutilization of brownfields, perhaps we can look at that.

Ultimately, we still have to have this discussion about the standard – where do we draw the line – and so I will write a letter to the Senate Office of Research to ask that they do a comparative study with the other states. As Ms. Hernandez mentioned, the 27 states that have the standards in place and compare those to what may or may not exist in the State of California, just to give us some information that we do not now have.

There's many other issues. My staff will be preparing a report on this hearing and that certainly will be available to you.

Mark, what's the timeframe on that?

MR. MARK STIVERS: In a few weeks.

SENATOR ALARCON: In a few weeks, so let's just say mid-February sometime. Mark will get it done.

Again, let me say that I want to thank all of you for participating. This is a debate that I think we should have had a couple of years ago but we're having it now. Let's move forward from here.

I think we do have the wherewithal. I was very impressed. I think we do have the intelligence, whether we're from San Francisco or Los Angeles. (Laughter) The State of California certainly has the ability to do a better job than we've been doing. And in fact, I think we can solve this problem, expedite the building of schools in a clean way and in the right places so that our kids have greater opportunities.

With that, I'd like to ask Senator Solis if she has any closing comments.

SENATOR SOLIS: Just that I'm glad that we were able to have such a diverse group of panelists here to talk about different aspects that we need to know, and so I'm encouraged by it and look forward to the report.

SENATOR ALARCON: Thank you.

Wendy.

MS. UMINO: Just one note. I'd like everybody to know that Senator Escutia does have a brownfield bill, SB 324, and that bill does have environmental restoration tools in there for local governments, address the future liability issue, property screening guidelines, all the things that were discussed today, and we hope that everybody here would work closely on the bill.

SENATOR ALARCON: With that, thank you very much.

This meeting is adjourned.

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TESTIMONY
BY THE DEPARTMENT OF TOXIC SUBSTANCES CONTROL

SENATOR RICHARD ALARCÓN, CHAIR
SENATE SELECT COMMITTEE ON ENVIRONMENTAL JUSTICE

JANUARY 14, 2000

HEARING AND ROUNDTABLE DISCUSSION ON "BROWNFIELDS" AND CONTAMINATED SCHOOL CLEANUPS

JUNIPERO SERRA STATE BUILDING
107 SOUTH BROADWAY, ROOM 1113
LOS ANGELES, CALIFORNIA

GOOD MORNING MR. CHAIRMAN AND MEMBERS. I AM BARBARA COLER, CHIEF OF THE STATEWIDE CLEANUP OPERATIONS DIVISION OF THE DEPARTMENT OF TOXIC SUBSTANCES CONTROL (DTSC). MY DIVISION IS RESPONSIBLE FOR OVERSEEING AND MANAGING MOST OF THE CLEANUPS OF PROPERTIES CONTAMINATED WITH TOXIC SUBSTANCES BEING PERFORMED BY PRIVATE SECTOR RESPONSIBLE PARTIES AND THE STATE FOR ORPHAN SITES. THE DIVISION IS ALSO RESPONSIBLE FOR IMPLEMENTATION OF THE VOLUNTARY CLEANUP PROGRAM (VCP) AND OTHER BROWNFIELDS INITIATIVES, AND THE INVESTIGATION AND CLEANUP OF HAZARDOUS MATERIALS THAT MAY BE FOUND ON PROPERTIES WHERE PUBLIC SCHOOLS ARE, OR WILL BE, LOCATED.

WITH ME TODAY ARE HAMID SAEBFAR AND DR. DEBORAH OUDIZ. MR. SAEBFAR IS CHIEF OF MY GLENDALE BRANCH OFFICE AND HANDLES THE VCP AND SCHOOLS PROGRAM FOR MOST OF THE SOUTHERN CALIFORNIA AREA. DR. OUDIZ IS A SENIOR TOXICOLOGIST IN DTSC'S HUMAN AND ECOLOGICAL RISK DIVISION. DR. OUDIZ HAS HAD MAJOR INVOLVEMENT IN THE EVALUATION OF SCHOOLS WITHIN THE LOS ANGELES UNIFIED SCHOOL DISTRICT WHICH ARE, OR ARE SUSPECTED, OF BEING

CONTAMINATED WITH HAZARDOUS MATERIALS.
I WILL DISCUSS THE GENERAL PROCESS FOLLOWED BY DTSC REGARDING THE INVESTIGATION AND CLEANUP OF SCHOOL PROPERTIES. I WILL ALSO BRIEFLY OUTLINE DTSC'S WORK TO EVALUATE ENVIRONMENTAL CONDITIONS AT SCHOOLS IN THE GREATER LOS ANGELES AREA AND STATEWIDE.

SCHOOL SITE INVESTIGATION AND CLEANUP PROCESS

THE FOLLOWING IS A DESCRIPTION OF THE GENERAL APPROACH TAKEN BY DTSC WITH REGARD TO THE INVESTIGATION AND CLEANUP OF SCHOOL PROPERTIES. DTSC'S INVOLVEMENT IN THE ENVIRONMENTAL EVALUATION OF PROPERTIES PROPOSED FOR NEW SCHOOL CONSTRUCTION (WHERE STATE BOND FUNDS WILL BE PROVIDED TO LOCAL SCHOOL DISTRICTS) WAS MANDATED BY SB 162 (ESCUTIA) AND AB 387 (WILDMAN) WHICH TOOK EFFECT ON JANUARY 1ST OF THIS YEAR. THE PROCESS DESCRIBED BELOW REFLECTS THE REQUIREMENTS OF THESE NEW LAWS.

- **PHASE I ENVIRONMENTAL ASSESSMENTS.** PHASE I ASSESSMENTS MUST BE COMPLETED FOR ALL PROPOSED PROPERTIES THAT HAVE BEEN IDENTIFIED BY A LOCAL SCHOOL DISTRICT AS THE PREFERRED SITE. THE PHASE I REPORTS MUST BE PREPARED BY QUALIFIED ENVIRONMENTAL PROFESSIONALS UNDER CONTRACT WITH THE LOCAL SCHOOL DISTRICT. THE PHASE I REPORTS WILL BE SENT TO THE CALIFORNIA DEPARTMENT OF EDUCATION (CDE) ALONG WITH ALL OTHER DOCUMENTATION REQUIRED FOR PROPOSED PROPERTY ACQUISITION PACKAGES. TO SPEED UP THE PROPERTY EVALUATION AND/OR CLEANUP PROCESS, SCHOOL DISTRICTS HAVE THE OPTION OF BEING ABLE TO SEND PHASE I REPORTS TO CDE IN ADVANCE OF COMPLETING THE PREPARATION OF OTHER DOCUMENTATION REQUIRED BY EXISTING LAW. CDE WILL ROUTE THE PHASE I REPORTS TO DTSC FOR REVIEW AND APPROVAL WITHIN 10 DAYS OF

RECEIPT. DTSC HAS 30 DAYS TO REVIEW THE PHASE I REPORT AND DETERMINE EITHER THAT THERE IS NO REASON TO BELIEVE THAT THE PROPOSED PROPERTY IS CONTAMINATED AND IS THEREFORE SUITABLE FOR ACQUISITION, OR THAT THERE IS A REASONABLE LIKELIHOOD THAT THE PROPERTY IS OR MAY BE CONTAMINATED.

NOTE: SB 162 [Section 17210.1(e)] states that the "Border Zone" determination process authorized by Article 11, Health and Safety Code, Chapter 6.5 may not be used to substitute for the Phase I Environmental Assessments or the Preliminary Endangerment Assessment process mandated by these two bills.

- **PRELIMINARY ENDANGERMENT ASSESSMENTS (PEAS).** IF DTSC DETERMINES THAT A PROPERTY IS OR MAY BE CONTAMINATED, THE LOCAL SCHOOL DISTRICT HAS TWO OPTIONS. IT CAN EITHER PROCEED TO CONTRACT WITH A QUALIFIED ENVIRONMENTAL CONSULTANT TO CONDUCT A PEA OF THE PROPERTY SUSPECTED OF CONTAMINATION UNDER DTSC OVERSIGHT, OR IT CAN PROPOSE AN ALTERNATIVE PROPERTY. IF THE SCHOOL DISTRICT CHOOSES TO PROCEED WITH A PEA, IT WILL BE REQUIRED TO ENTER INTO A VOLUNTARY CLEANUP AGREEMENT WITH DTSC TO PERFORM THE OVERSIGHT FUNCTION. DTSC WILL ASSIST THE SCHOOL DISTRICT WITH THE SCOPING AND PLANNING OF THE PEA. WHEN THE PEA HAS BEEN COMPLETED BY THE ENVIRONMENTAL CONSULTANT, THE DISTRICT WILL FORWARD IT TO DTSC FOR REVIEW AND APPROVAL. DTSC WILL ADVISE THE DISTRICT IF THERE ARE ANY TECHNICAL SHORTCOMINGS WITH THE PREPARATION OF THE PEA SO THAT THEY CAN BE

CORRECTED IN A TIMELY MANNER. DTSC IS REQUIRED TO REVIEW AND RESPOND TO PEA REPORTS WITHIN 60 DAYS OF RECEIPT. IF THE APPROVED PEA HAS MADE A DETERMINATION THAT NO CONTAMINATION EXISTS AT THE SITE, OR THAT THERE IS SOME CONTAMINATION BUT NOT AT A LEVEL THAT POSES A SIGNIFICANT HEALTH RISK, THE SCHOOL DISTRICT MAY PROCEED WITH SITE ACQUISITION PROVIDED THAT IT HAS MET ALL OTHER CURRENT REQUIREMENTS FOR A PROPERTY ACQUISITION. IF THE APPROVED PEA CONCLUDES THAT THE PROPERTY HAS SIGNIFICANT CONTAMINATION, THE SCHOOL DISTRICT CAN EITHER CLEANUP THE PROPERTY UNDER DTSC OVERSIGHT OR IT CAN PROPOSE AN ALTERNATIVE PROPERTY. IF IT ELECTS TO PROCEED WITH CLEANUP, THE DISTRICT IS REQUIRED TO:

1) PREPARE AN ESTIMATE OF THE COST OF INVESTIGATION AND CLEANUP OF THE PROPOSED SITE;

2) ASSESS THE BENEFITS OF SELECTING THE PROPOSED SITE AS COMPARED TO ALTERNATIVE SITES;

3) OBTAIN THE APPROVAL OF CDE TO ACQUIRE THE SITE; AND

4) EVALUATE THE SUITABILITY OF THE PROPOSED SITE VERSUS AN ALTERNATIVE SITE IF CDE HAS RECOMMENDED AN ALTERNATIVE SITE.

NOTE: All sites acquired for school construction must meet DTSC standards for residential use of land, which is the DTSC's most protective standard.

- **INVESTIGATION AND CLEANUP.** IF THE SCHOOL DISTRICT ELECTS TO CONDUCT A CLEANUP, IT WILL CONTRACT WITH A QUALIFIED ENVIRONMENTAL CONSULTING FIRM AND ENTER

INTO A VOLUNTARY CLEANUP AGREEMENT WITH DTSC TO OVERSEE THE EFFORT. AB 387 AND SB 162 REQUIRE THAT DTSC FOLLOW THE PUBLIC PARTICIPATION REQUIREMENTS MANDATED BY STATE SUPERFUND LAW SO THAT SCHOOL SITES ARE NOT TREATED DIFFERENTLY. THE FIRST STEPS ARE TO CONDUCT A THOROUGH INVESTIGATION OF THE PROPERTY TO DETERMINE ALL HAZARDOUS MATERIALS OF CONCERN AND THE LATERAL AND VERTICAL EXTENT OF CONTAMINATION (KNOWN AS THE REMEDIAL INVESTIGATION, RI). A RISK ASSESSMENT WILL ALSO BE CONDUCTED WHICH WILL BE USED AS THE BASIS FOR DETERMINING CLEANUP LEVELS FOR THE PROPERTY. BASED ON THIS INFORMATION, CLEANUP OPTIONS WILL BE IDENTIFIED AND EVALUATED IN A FEASIBILITY STUDY (FS). NEXT, A REMEDIAL ACTION PLAN (RAP) WILL BE PREPARED AND PRESENTED AT A PUBLIC MEETING TO ELICIT COMMENTS. FOR SMALL AND RELATIVELY UNCOMPLEX CONTAMINATION PROBLEMS, IT MAY BE POSSIBLE TO PROCEED WITH A REMOVAL ACTIONS WORKPLAN (RAW) RATHER THAN A RAP AFTER THE PEA IS COMPLETED. DTSC WILL DETERMINE WHEN IT WILL BE APPROPRIATE TO USE THE RAW AND RAP PROCESSES. THE RAW OR RAP WILL IDENTIFY THE CLEANUP OPTION SELECTED AS WELL AS THE CLEANUP GOALS. ONCE THE RAP IS FINALIZED, AN ENGINEERING DESIGN OF THE CLEANUP OPTION SELECTED IS DEVELOPED. THE SITE IS THEN CLEANED UP TO THE STANDARDS SPECIFIED IN THE RAP OR RAW. WHEN THE CLEANUP IS COMPLETE AND DTSC IS SATISFIED THAT THE CLEANUP GOALS HAVE BEEN ACHIEVED, A LETTER WILL BE ISSUED TO THE SCHOOL DISTRICT (WITH COPIES TO CDE, THE STATE ARCHITECT AND THE OFFICE OF PUBLIC SCHOOL CONSTRUCTION) CERTIFYING THAT THE CLEANUP MEETS STATE STANDARDS AND THAT THE PROPERTY IS READY FOR SCHOOL CONSTRUCTION.

- **PROBLEMS ENCOUNTERED DURING SCHOOL CONSTRUCTION.** ALTHOUGH UNLIKELY, IT IS POSSIBLE THAT CONTAMINATION MAY BE FOUND DURING CONSTRUCTION OF

A SCHOOL ON A PROPERTY THAT HAD EARLIER BEEN DETERMINED BY DTSC TO BE FREE OF SIGNIFICANT CONTAMINATION. IT IS ALSO POSSIBLE, BUT AGAIN UNLIKELY, THAT ADDITIONAL CONTAMINATION MAY BE FOUND AT A SITE DURING SCHOOL CONSTRUCTION WHERE A CLEANUP HAD BEEN PERFORMED EARLIER UNDER DTSC OVERSIGHT. IN THESE SITUATIONS, THE SCHOOL DISTRICT IS REQUIRED TO PROMPTLY NOTIFY DTSC AND STOP CONSTRUCTION UNTIL DTSC DETERMINES IT IS SAFE TO PROCEED. ADDITIONAL INVESTIGATION AND CLEANUP STEPS WOULD BE REQUIRED AS NECESSARY TO RECTIFY THE SITUATION. NO NEW SCHOOLS CONSTRUCTED ON PREVIOUSLY CONTAMINATED PROPERTY CAN BE OPENED FOR USE UNTIL DTSC HAS DETERMINED IT IS SAFE TO DO SO.

CURRENT SCHOOL ACTIVITIES IN SOUTHERN CALIFORNIA:

THE FOLLOWING IS A SUMMARY OF RECENT OR PLANNED ACTIVITIES RELATED TO SCHOOLS LOCATED WITHIN THE LOS ANGLES AREA. THE SOUTHERN CALIFORNIA SCHOOL UNIT'S CURRENT WORK ASSIGNMENTS CAN BE SEPARATED INTO THREE MAJOR CATEGORIES:

- LOS ANGELES UNIFIED SCHOOL DISTRICT'S 11 PRIORITY EXISTING SCHOOL SITES.
- LOS ANGELES UNIFIED SCHOOL DISTRICT'S MAYOR'S TASK FORCE PROPOSED SCHOOL SITES.
- OTHER ONGOING SCHOOL DISTRICT PRELIMINARY ENDANGERMENT ASSESSMENT WORK. TWENTY-ONE PEAS ARE PENDING EXECUTION OF A VOLUNTARY CLEANUP AGREEMENT.

LOS ANGELES UNIFIED SCHOOL DISTRICT (LAUSD) 11 PRIORITY EXISTING SCHOOL SITES:

LAUSD HAS ASKED DTSC TO PROVIDE OVERSIGHT FOR RESPONDING TO CONCERNS REGARDING THE IDENTIFICATION OF A NUMBER OF EXISTING LOS ANGELES UNIFIED SCHOOL DISTRICT (LAUSD) SCHOOLS THAT HAVE KNOWN REMEDIATION SYSTEMS ON-SITE, OR POSSIBLE CONTAMINATION ON OR OFF-SITE. THE MAJORITY OF THESE PRIORITY SCHOOLS ARE POTENTIALLY AFFECTED BY LANDFILLS, AND THE NUMBER MAY GROW. THERE ARE REPORTS RANGING BETWEEN 30-100 SCHOOLS THAT ARE POSSIBLY NEAR LANDFILLS. WE ARE CONTINUING TO WORK WITH THE LAUSD TO MAKE STEADY PROGRESS ON A NUMBER OF THESE 11 SCHOOLS.

LOS ANGELES UNIFIED SCHOOL DISTRICT'S MAYOR'S TASK FORCE PROPOSED SCHOOL SITES:

ANOTHER PRIORITY OF THE SCHOOLS UNIT HAS BEEN IN WORKING WITH LAUSD TO DEVELOP A MODEL PRELIMINARY ENDANGERMENT ASSESSMENT (PEA) WORKPLAN. THE MODEL WORKPLAN HAS BEEN COMPLETED THROUGH A JOINT EFFORT OF LAUSD'S CONSULTANT AND DTSC. THIS WORKPLAN IS APPLICABLE NOT ONLY TO PROPERTIES TO BE CLEARED FOR THE MAYOR'S TASK FORCE PRIORITY PROJECTS, BUT ALSO FOR OTHER LAUSD SCHOOL PROJECTS.

NEW LAUSD SCHOOLS THE UNIT HAS RECENTLY BEGUN TO WORK ON INCLUDE BELMONT HOLLYWOOD PRIMARY CENTER #2, BELMONT HOLLYWOOD PRIMARY CENTER #3, AND MANUAL ARTS ELEMENTARY SCHOOL.

WE CONTINUE TO WAIT FOR A RESPONSE FROM LAUSD REGARDING THE MASTER VOLUNTARY CLEANUP AGREEMENT (VCA) FOR 47 PROPOSED AND EXISTING SCHOOLS REQUIRING DTSC OVERSIGHT. LAUSD HAS HAD THE MASTER VCA SINCE AUGUST 1999. THE INITIAL COST ESTIMATE PROVIDED TO LAUSD IS FOR THE AMOUNT OF $787,000. AN ADVANCE PAYMENT TO DTSC OF $350,000 HAS NOT BEEN PAID BY LAUSD.

OTHER SCHOOL DISTRICTS - PRELIMINARY ENDANGERMENT ASSESSMENT WORK:

DTSC CONTINUES TO RECEIVE VOLUNTARY CLEANUP AGREEMENT APPLICATIONS FROM VARIOUS SCHOOL DISTRICTS. TWENTY ONE PEAS ARE PENDING EXECUTION OF A VOLUNTARY CLEANUP AGREEMENT. ONGOING WORK CONTINUES AT ENCHANTED VALLEY ELEMENTARY (PERRIS UNION ELEMENTARY SCHOOL DISTRICT), GABRIELINO HIGH SCHOOL (SAN GABRIEL UNIFIED SCHOOL DISTRICT), RAWLINGS ELEMENTARY SCHOOL (TUSTIN RANCH SCHOOL DISTRICT), GOLDEN VALLEY HIGH SCHOOL (WILLIAM S. HART SCHOOL DISTRICT), AND PERRIS UNION ELEMENTARY SCHOOL DISTRICT.

NEW SCHOOL PROJECTS DTSC WILL BEGIN WORK ON INCLUDE OXNARD UNIFIED SCHOOL DISTRICT SOUTHEAST ELEMENTARY SCHOOL, OXNARD UNIFIED SCHOOL DISTRICT NORTHWEST ELEMENTARY SCHOOL, CHINO UNIFIED SCHOOL DISTRICT, AND HAWTHORNE SCHOOL DISTRICT KORNBLUM SCHOOL.

CURRENT HIGH PROFILE SCHOOLS

SOUTH GATE HIGH SCHOOL AND ELEMENTARY SCHOOL - LAUSD:

THE VCA HAS BEEN EXECUTED. A LETTER WAS SENT TO LAUSD FOR SUBMITTAL OF A DETAILED PROJECT SCHEDULE. DTSC HAS ISSUED A SECOND LETTER REQUESTING SUBMITTAL OF A REMEDIAL INVESTIGATION/FEASIBILITY STUDY (RI/FS) WORK

PLAN. THE SITE IS REPORTED TO CONTAIN A VARIETY OF HAZARDOUS SUBSTANCES MOST NOTABLY REPORTED ~~ORANGE~~ contam GROUNDWATER AND HEXAVALENT CHROMIUM FROM A FORMER CHROME PLATING FACILITY. MEANWHILE THE BOARD OF EDUCATION IS DEBATING WHETHER OR NOT TO PROCEED WITH CONSTRUCTING THE SCHOOLS ON THIS SITE. LAUSD HAS HIRED A CONSULTANT TO INVESTIGATE A PORTION OF THE PROPOSED SCHOOL SITE THAT MAY BE A POTENTIAL HEALTH THREAT TO OFF-SITE RESIDENTS. A WORKPLAN FOR INVESTIGATION OF THIS PARTICULAR AREA IS BEING DEVELOPED WITH DTSC'S OVERSIGHT.

GRATTS ELEMENTARY SCHOOL - LAUSD:

THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD (RWQCB) IS THE LEAD ON THIS SITE FOR CONTINUING REMEDIATION OF UNDERGROUND STORAGE TANKS (USTS). GRATTS WAS IDENTIFIED BY LAUSD AS A SCHOOL THAT CONTAINED AN ACTIVE REMEDIATION SYSTEM FOR VOLATILE ORGANIC COMPOUNDS (VOCS). DTSC HAS IDENTIFIED OTHER POSSIBLE CONTAMINATED AREAS THAT ARE NOT BEING ADDRESSED. DTSC HAS MET WITH LAUSD AND THE RWQCB, AND IT WAS AGREED THAT DTSC WOULD HANDLE ALL ISSUES AT THIS SITE OTHER THAN THE USTS. DTSC HELD A SCOPING MEETING WITH LAUSD AND THEIR CONSULTANT AND CONTINUES TO WAIT FOR LAUSD TO SUBMIT A RI WORKPLAN.

FRANCIS POLYTECHNIC HIGH SCHOOL AND TOWNE AVENUE ELEMENTARY - LAUSD:

THESE SITES ARE ALSO PART OF THE LIST OF ELEVEN EXISTING PRIORITY SCHOOLS; THEY ARE BOTH SITUATED NEAR LANDFILLS. INITIAL EXPOSURE ASSESSMENT ACTIVITIES HAVE BEEN CONDUCTED AT BOTH THESE SCHOOLS TO DETERMINE IF THERE IS AN IMMINENT THREAT POSED BY METHANE AND

OTHER CHEMICALS OF CONCERN MIGRATING TO THE SCHOOL FROM NEARBY LANDFILLS. INITIAL SAMPLING DOES NOT INDICATE THAT A THREAT EXISTS, HOWEVER, A PEA MUST BE CONDUCTED TO BE CONCLUSIVE REGARDING THE POTENTIAL RISKS. THESE ASSESSMENTS ARE BEING IMPLEMENTED ON A FAST TRACK TO RESPOND TO THE CONCERNS OF LAUSD, DTSC AND COMMUNITY MEMBERS. AS A RESULT OF FACULTY AND COMMUNITY CONCERN, DTSC HAS REQUESTED ASSISTANCE FROM THE LOS ANGELES COUNTY TOXICS AND EPIDEMIOLOGY PROGRAM, AND THE CALIFORNIA DEPARTMENT OF HEALTH SERVICES TO INVESTIGATE THE CANCER-RELATED CONCERNS AT THESE SCHOOLS. PEA FIELDWORK HAS OCCURRED AT TOWNE AVENUE, AND IS ANTICIPATED TO OCCUR AT FRANCIS POLY DURING THE HOLIDAYS THIS DECEMBER. AT THE REQUEST OF SCHOOL FACULTY AND THE COMMUNITY, PUBLIC MEETINGS FOR BOTH OF THESE SCHOOLS WERE HELD THE WEEK OF DECEMBER 13, 1999.

THIRD STREET ELEMENTARY - LAUSD:

THIS SITE IS ALSO A PART OF THE LIST OF ELEVEN EXISTING SCHOOLS AND HAS ALSO UNDERGONE INITIAL EXPOSURE ACTIVITIES TO DETERMINE IF THERE IS A THREAT POSED BY METHANE AND OTHER CHEMICALS OF CONCERN. THE SCHOOL HAS BEEN IDENTIFIED TO HAVE A SUMP WITH OILY MATERIAL THAT OCCASIONALLY SEEPS OUT. DTSC IS AWAITING THE SUBMITTAL OF A PEA WORKPLAN FROM LAUSD.

PARK AVENUE ELEMENTARY - LAUSD:

THIS SITE IS ANOTHER OF THE ELEVEN EXISTING SCHOOLS AND ALSO HAS HAD AN INITIAL EXPOSURE ASSESSMENT CONDUCTED TO DETERMINE IF THERE IS AN IMMINENT THREAT POSED BY METHANE AND OTHER CHEMICALS OF CONCERN. VALIDATED RESULTS OF THIS PRELIMINARY INVESTIGATION WILL BE RECEIVED BY DTSC SOON. THE SCHOOL SITS ATOP A

FORMER HAZARDOUS WASTE LANDFILL AND SURFACE IMPOUNDMENT. DTSC CONDUCTED AN INTERIM MEASURE IN THE LATE 1980S THAT INVOLVED COVERING THE PLAYGROUND AREA TO ADDRESS ANY POTENTIAL EXPOSURE. DTSC HAS INSTRUCTED LAUSD TO DEVELOP A SITE CHARACTERIZATION WORKPLAN FOR THE SCHOOL AS SOON AS POSSIBLE.

GLASSEL PARK AND PARK AVENUE PRIMARY CENTERS – LAUSD:

DTSC APPROVED THE PEA WORKPLANS FOR BOTH SITES AND FIELDWORK HAS BEEN COMPLETED. DTSC IS REVIEWING THE PARK AVENUE PEA REPORT AND IS WAITING FOR LAUSD SUBMITTAL OF THE GLASSEL PARK PEA REPORT.

BELMONT LEARNING CENTER COMPLEX - LAUSD:

AS YOU KNOW, THE SITE IS LOCATED IN DOWNTOWN LOS ANGELES. LAUSD IS CONDUCTING A REMEDIAL INVESTIGATION AND FEASIBILITY STUDY (RI/FS) UNDER A VOLUNTARY CLEANUP AGREEMENT WITH DTSC. THE SITE LIES ON THE LOS ANGELES OIL FIELD AND CURRENTLY INCLUDES SEVERAL BUILDINGS IN VARIOUS STAGES OF CONSTRUCTION COMPLETION. THE CONTAMINANTS OF CONCERN INCLUDE METHANE AND HYDROGEN SULFIDE GASES. INITIALLY PROPOSED INVESTIGATIONS INCLUDED SOIL, SOIL VAPOR AND GROUNDWATER. BECAUSE SUBSURFACE LITHOLOGY MAY PROVIDE PATHWAYS FOR GAS MIGRATION TO THE SURFACE, DTSC HAS ASKED FOR A THREE DIMENSIONAL SEISMIC SURVEY. A WORKPLAN HAS BEEN SUBMITTED TO DTSC WHICH HAS BEEN CONDITIONALLY APPROVED BY DTSC. THE SCHOOL BOARD HAS NOT YET APPROVED THE FUNDING FOR THIS ACTIVITY.

TWO SOIL GAS SURVEY WORKPLANS FOR ADJACENT SCHOOLS, THE DOWNTOWN BUSINESS MAGNET AND PLACENTIA ELEMENTARY SCHOOLS, ARE CURRENTLY BEING REVIEWED. THE INFORMATION COLLECTED FROM THESE SCHOOLS WILL BE

USED AS A SUPPLEMENT TO THE RI/FS FOR THE SITE. THIS ADDITIONAL WORK MAY DELAY THE COMPLETION OF THE PROJECT. DTSC HAS ASKED LAUSD FOR A NEW PROJECT SCHEDULE.

JEFFERSON MIDDLE SCHOOL - LAUSD:

DTSC HAS APPROVED SOIL SAMPLING WHERE HISTORICAL STRUCTURES (E.G. SUMPS) WERE PREVIOUSLY LOCATED. THE SAMPLING WAS CONDUCTED DECEMBER 27-DEC 31 WHEN THE SCHOOL WAS CLOSED. SUPPLEMENTAL FLUX CHAMBER SAMPLING WAS CONDUCTED ON DEC. 11, 1999 AND CONTINUED TO SHOW CONTAMINANT CONCENTRATIONS LESS THAN AMBIENT AIR. DTSC IS CURRENTLY AWAITING A 1) GROUNDWATER INVESTIGATION REPORT FROM LAUSD AND 2) RESULTS OF SAMPLING AT THE HARD CHROME FACILITY LOCATED ACROSS 56TH STREET FROM JEFFERSON SCHOOL.

RIO DEL NORTE ELEMENTARY – RIO SCHOOL DISTRICT:

DTSC IS OVERSEEING AN ADDITIONAL INVESTIGATION AT THE PROPERTY FOR THE PROPOSED RIO DEL NORTE ELEMENTARY SCHOOL. THE PROPERTY WAS FORMERLY THE SITE OF AGRICULTURAL OPERATIONS. RESULTS OF THE INITIAL SAMPLING INDICATE THAT TOXAPHENE, A CARCINOGEN, IS ELEVATED IN AN APPROXIMATELY TWO-ACRE AREA OF THIS TEN-ACRE SITE. DTSC HAS ISSUED A PROPOSITION 65 NOTIFICATION, AND THE SCHOOL DISTRICT HAS FENCED THE AREA OF THE SITE IN QUESTION UNTIL FURTHER CHARACTERIZATION AND REMEDIATION CAN OCCUR. THE REMAINING AREA OF THE SITE WAS CLEARED BY DTSC SO AS NOT TO HINDER THE ABILITY OF THE SCHOOL DISTRICT TO ACQUIRE FUNDS TO BUILD THE SCHOOL. THE ADDITIONAL INVESTIGATION WORK REQUIRED BY DTSC WAS COMPLETED IN EARLY DECEMBER, AND DTSC IS WAITING FOR SUBMITTAL OF THE PEA REPORT. A REMOVAL ACTION AT THIS SITE IS ANTICIPATED DUE TO THE ELEVATED LEVELS OF TOXAPHENE.

SUVA SCHOOLS - MONTEBELLO SCHOOL DISTRICT:

IN 1998, DTSC CONDUCTED SAMPLING AT THESE SCHOOLS AND THEY WERE FOUND SAFE FOR USE BY STUDENTS AND FACULTY. THE THIRD ENVIRONMENTAL HEALTH ACTIVITIES ADVISORY GROUP, HOSTED BY THE CALIFORNIA DEPT. OF HEALTH SERVICES (DHS), WAS HELD DECEMBER 10TH AT SUVA INTERMEDIATE SCHOOL AND ATTENDED BY DTSC STAFF. A PRESENTATION WAS GIVEN BY A CANCER RESEARCH SPECIALIST FROM UNIVERSITY OF SOUTHERN CALIFORNIA. THE PRESENTATION SUPPORTED FINDINGS THAT AN EPIDEMIOLOGICAL STUDY BASED ON AN APPARENT INCREASED NUMBER IN THE CANCER CASES IN THE BELL GARDENS AREA WOULD NOT BE STATISTICALLY SIGNIFICANT TO LINK EXPOSURE TO INCREASED CANCER RATES. THE COMMUNITY MEMBERS PRESENT HAD MANY QUESTIONS REGARDING THIS PRESENTATION. A FOLLOW-UP MEETING WAS CONDUCTED ON DECEMBER 16TH TO DISCUSS THE NATURE OF DHS'S ALTERNATIVE PLANNED STUDY TO EVALUATE RESPIRATORY ISSUES.

SOME COMMUNITY MEMBERS STILL HAVE HEALTH CONCERNS ABOUT THESE SCHOOLS, PARTICULARLY WITH RESPECT TO STUDENTS, FACULTY AND OTHER RESIDENTS WHO HAVE CONTRACTED CANCER, AND WANT AN EPIDEMIOLOGIC STUDY TO BE DONE.

THE LOS ANGELES COUNTY DEPARTMENT OF HEALTH SERVICES IS NOT CURRENTLY PLANNING TO CONDUCT AN EPIDEMIOLOGIC STUDY BECAUSE THEY BELIEVE IT WOULD NOT HELP RESOLVE OUTSTANDING HEALTH QUESTIONS.

CHROME CRANKSHAFT, BELL GARDENS, LOS ANGELES COUNTY:

THIS SITE IS ADJACENT TO SUVA SCHOOLS. CHROME PLATING IS NO LONGER CONDUCTED AT THE SITE, AND EXTERNAL

PROCESS EQUIPMENT (E.G., SCRUBBERS) HAS BEEN REMOVED. DURING THE WEEK OF NOVEMBER 15, 1999, LOW-FLOW GROUNDWATER PUMPS WERE INSTALLED AND GROUNDWATER MONITORING WAS CONDUCTED ON FOUR OF FIVE EXISTING WELLS. PRELIMINARY DATA ANALYSIS HAS REVEALED THAT HEXAVALENT CHROMIUM AND CHLORINATED VOC'S WERE DETECTED IN ALL WELLS SAMPLED. A REMEDIAL INVESTIGATION SCOPING MEETING HAS BEEN SCHEDULED FOR JANUARY 11, 2000. A VOLUNTARY CLEANUP AGREEMENT HAS BEEN FINALIZED WITH DOWNEY VENDORS FOR INVESTIGATION AT THIS PROPERTY WHICH WAS PREVIOUSLY OWNED BY CHROME CRANKSHAFT.

J&S CHROME PLATING:

THIS SITE IS ADJACENT TO CHROME CRANKSHAFT AND HAS BEEN VACANT FOR NEARLY 10 YEARS. THE RESPONSIBLE PARTY (RP) IS WORKING WITH DTSC TOWARDS SITE INVESTIGATION AND CLEANUP. DTSC HAS DETERMINED THE PROPOSED ACTION OF ASPHALT CAPPING EXPOSED SOIL ON THE SITE WILL BE CONDUCTED PURSUANT TO A RAW.

CURRENT SCHOOL ACTIVITIES IN NORTHERN CALIFORNIA:

PHASE I ENVIRONMENTAL SITE ASSESSMENTS

PHASE I ENVIRONMENTAL SITE ASSESSMENTS ARE REVIEWED PURSUANT TO AN AGREEMENT WITH THE CALIFORNIA DEPARTMENT OF EDUCATION (CDE) BY THE SACRAMENTO REGIONAL OFFICE. AS OF DECEMBER 16, 1999, ONE HUNDRED AND ONE (101) PHASE I DOCUMENTS HAVE BEEN SUBMITTED BY CDE. DTSC HAS COMPLETED REVIEW OF SIXTY SIX, OF THESE, "NO ACTION" LETTERS HAVE BEEN ISSUED FOR NINETEEN; FORTY SEVEN LETTERS REQUIRING THAT PRELIMINARY ENDANGERMENT ASSESSMENTS (PEAS) BE CONDUCTED HAVE BEEN ISSUED. THERE ARE THIRTY FIVE (35) PHASE I DOCUMENTS PENDING IN THE DTSC REVIEW PROCESS.

PRELIMINARY ENDANGERMENT ASSESSMENT

IN ADDITION TO THE REVIEWS BEING CONDUCTED BY THE SOUTHERN CALIFORNIA SCHOOLS UNIT (OUTLINED ABOVE), THE SACRAMENTO AND BERKELEY REGIONAL OFFICES ARE PROVIDING REVIEW AND OVERSIGHT OF PEAS AND ADDITIONAL WORK AS NEEDED AT PROPOSED SCHOOL PROPERTIES.

FOR BOTH OFFICES AS OF DECEMBER 16, 1999, FIFTEEN VOLUNTARY CLEANUP AGREEMENTS (VCAS) ARE BEING NEGOTIATED WITH SCHOOL DISTRICTS, PRIMARILY TO OVERSEE PEAS. NINE SCHOOL DISTRICTS ARE ALREADY PROCEEDING WITH DTSC OVERSIGHT OF PEAS PURSUANT TO VCAS. THREE SCHOOL DISTRICTS HAVE COMPLETED PEAS TO DATE AND WERE ISSUED "NO FURTHER ACTION" LETTERS AS THE PROPERTIES WERE FREE OF HAZARDOUS MATERIALS WHICH WOULD POSE A RISK TO SCHOOL CHILDREN OR OTHERS AT THE SCHOOL.

THAT CONCLUDES MY PREPARED REMARKS. THANK YOU FOR PROVIDING US THIS OPPORTUNITY TO SHARE OUR OBSERVATIONS AND THOUGHTS ON THESE CRITICAL ISSUES. I WOULD BE HAPPY TO ANSWER ANY QUESTIONS YOU MAY HAVE AT THIS TIME OR DURING THE ROUNDTABLE DISCUSSION.

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